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REPORT

OF THE

INQUIRY COMMITTEE APPOINTED TO EXAMINE THE WORKING OF LAND REFORMS, PRICE CONTROL ETC-.

1953 A. D.

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Report Committee

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INTRODUCTION.

INTRODUCTION

INTRODUCTION.

1. The Government of Jammu and Kashmir set up an Inquiry Committee under Cabinet Order No. 128-C dated 2nd February, 1953, to report on the following matters :-

(1) working of land reforms in Kandi area of the State ;

(2) working of the system of price and other controls prevalent in the State ;

(3) progress of rehabilitation of the displaced persons in the Jammu and Kashmir State ; and

(4) ways and means to be adopted for the rehabilitation of *ex*-servicemen of the State.

2. The Committee consisted of Mr. Justice Janki Nath Wazir, Chief Justice, Thakur Harnam Singh Pathania, Chief Conservator of Forests, Kh. Ali Shah, Revenue Commissioner and Pirzada Ghulam Ahmad, Accountant General. The Chief Justice was appointed as the Chairman of the Committee and Pandit Radha Krishna Koul Sub-Judge Udhampur as its Secretary. Two months time was allowed by the Government for the submission of the report. This time-limit was subsequently extended by another two months.

3. The Committee met for the first time on the 7th of February, 1953, and decided that a questionnaire on all the four matters covered by the terms of reference be prepared and issued to Government Departments, public in general and commercial, zamindari, transport and other organizations and individuals concerned in particular. The questionnaire was accordingly prepared and issued to various bodies and individuals who were requested to send their memoranda and appear personally if they so desired for expressing their views on the matters under inquiry. The questionnaire forms Appendix I of the report.

4. The Committee decided to tour both the provinces of Jammu and Kashmir and the District of Ladakh to examine witnesses coming forward to depose in regard to the matters under inquiry. In Jammu Province the following

places were visited by the Committee and a very large number of witnesses at each place was examined :—

Ranbirsinghpura.	Batote.
Reasi	Nowshera.
Akhnur.	Rajouri.
Jeorian.	Poonch.
Udhampur.	Hiranagar.
Ramnagar.	Kathua.
Bhadarwah.	Basohli.
Doda.	Samba.

In Kashmir Province the Committee visited Baramulla, Anantnag, Uri, Handwara, Sopore, Bandipore, Shopian, Kulgam, Badgam, Sohgam, Chaukibal, Tral, Tangmarg, Gund, Qazigund, Kangan, Gandarbal, Pulwama, Desu and Pahalgam. The Committee visited Leh and went up to Hemis, 22 miles away from Leh.

5. At the headquarters representatives of different organizations and public men were examined. The officials and heads of the departments concerned with the matters under inquiry were also examined and asked to explain the official point of view besides the points which arose out of the examination of other witnesses. It was gratifying to note that the public in Muffasils and in the towns appeared in large numbers and expressed their views on the matters without any reservation. The Committee collected ample material in the form of memoranda and oral statements which was very helpful and educative for the purpose of this report. 265 persons—officials and non-officials—submitted memoranda and 459 persons made oral statements. Appendix II gives a list of these. The representatives of certain groups were examined and their views were put to others to ascertain their reaction and any one who wanted to tender evidence was allowed to do so. We have recorded our conclusions in this report on the basis of the memoranda and the oral statements.

6. The Committee could not complete its report within the time prescribed by the Government inasmuch as the subject matter covered by the terms of reference was vast and the Committee had to tour all over the State to ascertain the points of veiws of various individuals and interests belonging to various localities which took a lot of time. To finish the task entrusted to it within the prescribed time-limit the Committee had to work at high pressure

and it did so cheerfully, sparing no pains to make the inquiry as complete and thorough as possible in these circumstances.

7. It is highly gratifying that there has been perfect accord among the members of the Committee in regard to the interpretation of public opinion and the formulation of recommendations and that the report is, therefore, unanimous. The recommendations, it may be pointed out, seek to resolve all conflicting points of view in conformity with the basic policies of the State and to remedy the defects observed in the methods of carrying them out.

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WORKING OF LAND REFORMS IN KANDI AREA OF THE STATE.

WORKING OF LAND REFORMS IN THE KANDI AREA OF THE STATE.

1. In order to understand the history of land reforms introduced in the State it is necessary to describe briefly the constitutional position obtaining in the State prior to 1947 and subsequent thereto. For the sake of convenience this has been briefly referred to in Appendix III of this report.

2. The Government being committed to the land reforms, to implement their organizational objective of "land to the tiller" realised the necessity of introducing land reforms. This they did from time to time by various measures to ameliorate the lot of the peasantry. Jagirdari was abolished and soon after that the Big Landed Estates Abolition Act was passed and the Tenancy Act was amended under several Amendment Acts.

3. The first term of reference to the Committee is to report on the working of land reforms in Kandi area of the State. Before disscusing this question it is necessary to have an idea of the land reforms which have been introduced in the State. In Appendix IV of this report the relevant sections of the Tenancy Act and the Big Landed Estates Abolition Act have been referred to briefly. As this is an important appendix special attention is invited to anomalies, inconsistencies and inequities existing in these laws as shown in the Appendix.

4. *Kandi Area—Definition of.*—Coming now to the main question which has been referred to the Committee, *i. e.* working of land reforms in Kandi area of the State, it is observed that in the order appointing this Committee the term "Kandi" has not been defined and, therefore, the task of defining it for the purpose of this inquiry falls upon the Committee. The Land Reforms Officer who has had to do a great deal with the recent agrarian reforms has not, in his lengthy and detailed memorandum, given any definition of the term "Kandi". The very first question that was asked of him when he appeared before us related to the definition of the term "Kandi". The Land Reforms Officer stated that when settlement operations of a Tehsil are undertaken its territory is divided by the settlement authorities into a number of assessment circles, an assessment circle being a group of estates

sufficiently homogeneous to admit of a common set of rates being used as a general guide in calculating the demands which can fairly be imposed upon them. The assessment circles are based on factors like soil, rainfall, depth of water, climate and the character of the cultivators etc. He stressed that for the purpose of this inquiry "Kandi" should be taken to mean the region or tract which has been described as such in the assessment reports and that it would not be advisable to deviate from the definition as given by the Settlement Officers and Settlement Commissioners. From the memorandum of the Land Reforms Officer it appears that in the assessment reports there are Kandi circles in 8 Tehsils of Jammu Province, namely Kishtwar, Ramban, Reasi, Akhnur, Jammu, Samba, Jasmergarh and Bhadarwah and in 8 Tehsils of Kashmir Province, namely Anantnag, Kulgam, Awantipura, Badgam, Shahr-i-Khas, Baramulla, Handwara and Sopore. There are no Kandi circles in other Tehsils including the Tehsils of Ladakh and Kargil.

5. When settlement operations are undertaken each Tehsil is divided into certain assessment circles described by different names which need not be the same. In Shahr-i-Khas Tehsil of Kashmir Province, for exanple, there are Darmayani, Sailaba, Nambal, Kandi and Srinagar assessment circles. The Maidani tract of Jammu Tehsil for example, has Barrari, Kandi and Andarwa circles and the Kandi tract of the same Tehsil has Pahari and Kandi circles. There are certain Tehsils in Jammu Province which have Barfani circles.

6. These are geographical divisions—the villages in each assessment circle possessing certain broad characteristics common to them all. These circles are not immutable. It is not necessary that the assessment circles recognised at one settlement will not be varied at a subsequent settlement for these circles are open to revision in view of the changes that may have taken place between two settlements. There may be amalgamation or further division of previous circles or land may be transferred from one circle to another. These assessment circles are further classified into sub-divisions in view of the nature of soil, its productivity, availability of irrigation etc., etc. For example, in Shahr-i-Khas Tehsil of Kashmir Province the soil is classified as Malyari, Demb Abi ,Demb Sailaba, Abi I, Abi II, Abi III, Radh, Wari, Maidani and Labru. In Maidani and Kandi tracts of Jammu Tehsil soil is classified as Chahi, Nehri, Abi, Sailaba, Haili, Gora, Warhal I, Warhal II and Rakkar (*Thangar*). These

divisions into assessment circles and classes of soil are made in order to facilitate settlement operations and assessment. After thus classifying the soil the yield of each class of soil is ascertained and the State's share in produce determined. This share is converted into money and is called land revenue. The rate of conversion of the produce into money is governed by the prevalent market price. This is worked out by the method of averages. The term "Kandi" as such is not defined in the assessment reports.

7. In para 5 of the assessment report of Shahr-i-Khas Tehsil of Kashmir Province the following description is given : —

> " Kandi is situate at the foot of and on high hills. Fields are terraced and sloping and good soil is washed away in seasons of heavy rains and snow-fall. Pasturage is ample but crops are damaged at times by hail-storms."

Similarly on page 2 of the assessment report of the Kandi tract of Jammu Tehsil the following description of "Kandi" circle is given ; —

> " As in the case of Pahari circle this tract is also traversed by a large number of nullas and *khads* which instead of serving any useful purpose do vast damage in the shape of eroding land by water action. During the course of their flow it is difficult to wade through them. When over-flooded these *khads* occasion some times loss of human life. The water, however, does not remain in these *khads* for a long time. Much trouble is felt in obtaining water for drinking purposes. Mostly people have to depend upon ponds for supply. In summer even ponds get dry and zamindars are so much occupied in making arrangements for their water-supply that they cannot afford time for any other work."

8. The Committee have considered the question as to why Kandi area was specially selected for inquiry into the working of land reforms. It appears that Kandi area was specially chosen because this area is commonly known and believed to be the most inferior one from economic point of view. This common belief is borne out by the description of it as set out above. The Land Reforms Officer himself stated that the Barfani circle in Ramban and Reasi Tehsils and the Barfani and Sarhadi circles in Kishtwar are inferior to Kandi as such. He has stated that Labru areas in Kashmir Province in most cases are worse than Kandi in Jammu. He has further mentioned that in Ladakh and Kargil Tehsils there may be areas which are inferior to Kandi area even if no Kandi assessment circle exists in these

Tehsils. There may be other areas similarly situated. There can be no dispute that land in Kargil and Ladakh Tehsils and at many places elsewhere is worse than the land in Kandi areas of both the Provinces. It may be mentioned here that at the time of settlement Jammu Tehsil was divided into two tracts, namely Maidani and Kandi tracts and separate assessment reports were written in respect of these tracts. In view of these considerations land in two frontier Tehsils—Ladakh and Kargil—and in Kandi tracts of Jammu Tehsil will fall within the purview of the Committee's inquiry regarding land reforms in Kandi areas. We are further of the view that if there are any areas or assessment circles in any Tehsil which are worse than, or as bad as, Kandi area from economic point of view they should be considered to come within the purview of the inquiry, even though they are not described as Kandi in assessment reports and that consequently the recommendations of the Committee should be taken to apply fully to them as well. The Committee's recommendations, therefore, should be taken to apply only to Kandi area as defined above and not to land in any other area.

9. *Maximum unit of* 182 *Kanals—Fixation of.*—The next important question is to find out the criterion on which the unit of 182 *kanals* and 160 *kanals* permitted to be held in ownership right by the proprietor and tiller respectively has been fixed.

10. The Land Reforms Officer has given in his memorandum statistics based on assessment reports of the Tehsils having Kandi circles regarding the average cultivated area per pair of bullocks, the average size of the proprietary and the tenant's holding, and the average cultivated area per head and per family, and stated that a holding of 182 *kanals* or 160 *kanals* should be characterised as an uneconomic holding because it was too large and could not be properly cultivated. He has further stated in his memorandum that the largest size of an economic holding proposed by the Revenue Officers did not exceed $12\frac{1}{2}$ acres. When he appeared before the Committee he was questioned about the bases on which a uniform unit of 182 *kanals* had been adopted throughout the State. His answer to the above question may be stated in his own words. He said as follows :—

> "Some where some ceiling had to be put, for without it the large number of tillers could not be benefited. The adoption of a uniform size of maximum holding for the proprietor and the tiller throughout the State was based on the consideration that in this

particular matter it was not the different soils which mattered but the technique of cultivation, the system of farming, capital and labour by which a unit of land could be developed to yield maximum production. The conclusion is that if the holding, whose maximum size as laid down by the Act, is properly developed, the result would be nearly the same. It is possible to *develop Kandi area to such an extent that it will yield the same result as other areas in non-Kandi areas, even Abi land in Kashmir.* There could be no arithmetical basis for adoption of the uniform ceiling. Differentiation in classes of soil do not matter. Productivity could be increased with human effort. For that matter there would be difference in productivity from village to village."

11. This is what the Land Reforms Officer has said in regard to the fixing of a uniform unit of 182 *kanals*. The contention of the Land Reforms Officer is that the unit of 182 *kanals* for proprietor is uneconomic because it is too large and could not be properly cultivated. His other contention is that the difference in soils and their productivity did not matter as with human effort it was possible to develop Kandi area to such an extent that it would yield the same result as other areas in non-Kandi and even Abi lands in Kashmir. That these contentions of his are fallacious on the face of them is self-evident. There can be no greater fallacy than the statement that irrigated land is as productive as unirrigated land or that Maidani land is as productive as land situate at the foot of a high hill. It is equally fallacious to assert that lands of Jammu Province and those of Ladakh district are as productive as lands of Kashmir Valley. It was not necessary for us to refer to any authority in support of these observations. It may, however, be observed that if any one were to compare even casually the provisions of Section 15-A of the Tenancy Act as first enacted in the Tenancy Amendment Act No. VII of 2005 and later on in the Tenancy Amendment Act No. I of 2007 he will not fail to notice that the Government itself on whose advice these Acts were enacted recognised firstly that one *kanal* of Abi land was equal to two *kanals* of Khushki land and secondly that one *kanal* of land in Kashmir Province was equal to two *kanals* of land in Jammu Province. Section 15-A of the Amendment Act of 2005 conferred protected tenancy rights in respect of 17 *kanals* of Abi or 33 *kanals* of Khushki land throughout the State but later on this section was replaced by Amendment Act No. I 2007 by maintaining the above limit for Kashmir Province and raising it to 33 *kanals* of Abi or 65 *kanals* of Khushki for Jammu Province. These provisions clearly show that in the judgment of the Government itself Abi land is twice as productive as Khushki land and land in Kashmir on the whole is twice as productive

as the land in Jammu Province. This is not all. The assessment reports have recognised that the extent of productivity is different not only in different assessment circles of a Tehsil but also that even in a single circle it varies from one class of soil to another class of soil. It is, therefore, clear that adopting of one uniform size of a proprietary holding throughout the State, irrespective of any consideration whatever, cannot be regarded as scientific or reasonable.

12. The Committee has tried its best to find out as to how the units of 182 *kanals* and 160 *kanals* were fixed uniformly in all parts of the State for a proprietor and a tenant respectively regardless of the nature of soil and its productivity but it has not been able to find any rational basis for fixing these units. The Land Reforms Officer, after his best efforts to explain this anomaly, had to concede that "*some where some ceiling had to be put for without it a large number of tillers could not be benefited*". He has not been able to show any reasonable ground on the basis of which the ceiling of 182 *kanals* and 160 *kanals* had been put. Mr. Mir Qasim, Member of the Assembly, who at one stage or another was associated with these reforms, admitted that adoption of these units was a sort of compromise and no rational grounds could be advanced in support of adopting uniform units throughout the State. But we think that this compromise has not satisfied the people at large. On the other hand it has created dissatisfaction and heart-burning among the people in the Kandi area. It has been represented that all the citizens being alike it was not clear why greater benefits were conferred upon people having irrigated lands in non-Kandi areas and why the same units were allotted to the people of Kandi area. Their grievance appears to be legitimate. The main grouse is that people in non-Kandi area where soil is much richer and nature more bountiful have been given 182 and 160 *kanals* and the same unit has been given in Kandi area where soil is much inferior and rain-fall is scanty and uncertain and consequently they produce very much less.

13. *Economic unit for a proprietor in Kandi.*—The question boils down to this :—

> What is an economic unit in Kandi for a proprietor and a tiller ?

It seems that this question was not resolved before the ceiling of 182 and 160 *kanals* was fixed. It is conceded that an

economic unit may be difficult to define or to determine in the absence of proper survey and statistical information. It is fundamentally dependant on the ratio between the population living on land and cultivable land available. In U.S.A. where technological development has reached a high stage and land is available in large quantities in relation to demand for it and very large farms are available for cultivation, the average size may be as high as 35 to 180 acres. The position in our country is very different. All over India there is a great pressure on land and the same is the case in our part of the country. More and more people live on land. When we talk of 182 and 160 *kanals* as the size of a holding the question will arise whether there is enough land to be distributed among the people who are hankering after it and want to make agriculture their sole source of livelihood. It will have to be further determined as to how much land in Kandi area would be enough for a tiller who has a family, say of five, to yield an income which will be sufficient to meet the barest necessaries of life like food, cloth, shelter etc. Such a holding will be considered to be convenient for a tiller.

14. In Kandi areas of Jammu Province there are mostly proprietor-tillers and the number of those whose holdings have been reduced to 182 *kanals* is not large. The Committee recognises that the fixing of a maximum holding for a proprietor was a difficult task and that at whatever point it was fixed there would necessarily be an element of arbitrariness. It also realises that if the unit were to be made an economic or subsistence unit for a proprietor it would vary not only from Tehsil to Tehsil but from village to village according to the productivity of the soil and from proprietor to proprietor according to the size of his family and the standard of living to which he was accustomed. If it were possible to arrive at such a subsistence unit even that would be variable from time to time according to the changes in circumstances. Such a state of affairs would be fraught with uncertainty which was not desirable.

15. In these circumstances the important question which arises is what should have been the ceiling units adopted by the State which would have been more rational.

16. As already observed in the preceding paragraph fixing a uniform unit for all the lands on the basis of acreage, in the opinion of the Committee, appears to be neither scientific nor rational. The more correct and scientific

solution of this knotty problem would have been the one suggested by some witnesses, one of them being an experienced Revenue Officer who rose to the highest position in the Revenue Department, R. B. Pandit Anant Ram, suggesting that the ceiling should have been adopted on the basis of land revenue instead of acreage as land revenue was assessed after taking into consideration all necessary factors including productivity. The Committee is not oblivious to the difficulty which might arise if the unit were now changed and fixed on the basis of land revenue as this will give rise to a number of difficulties which it may not be easy to surmount. Firstly the rate of land revenue varies from one class of land to another and from one circle to another ; secondly huge organization may have to be started to determine the units from place place on account of different rates of revenue obtaining in the State which will be a tedious and cumbersome task ; and thirdly the units in some places will have to be raised four-fold and it may be difficult for the State to implement these suggestions without creating great confusion and unrest among the tillers. A fair and practicable course would have been to take guidance from the criterion laid down in Section 15-A of the Tenancy Act. Taking a basic unit in terms of Abi land a larger unit of land in Kandi area should have been fixed.

17. Different suggestions have been made by different witnesses as to the size of the unit. These suggestions, putting them arithmetically, may be summarised as follows :—

(*i*) The more rational basis for fixing this unit would be to do it on the basis of productivity of the land. Taking 182 *kanals* as fixed by the Government to be a unit for Maidani circle of Kashmir of which the productivity is the maximum in the whole State, the unit for other lands especially Kandi in Kashmir and Kandi in Jammu should be fixed in the inverse proportion according to the productivity of these lands. The productivity can easily be determined from the Chakla rates as fixed in various assessment reports of various kinds of lands. A unit in Kashmir for Maidani circle has been placed at 182 *kanals*. Average productivity in the Valley per *kanal* has been fixed at one *khirwar* 8 *traks*. As against this average productivity in Kashmir Kandi is about one *khirwar*. On the basis of the preceding formula the unit in Kandi should increase by 50 per cent which in terms of land comes to 273 *kanals*. Since Government have conceded under Tenancy Act that a unit in Jammu should be double the unit in Kashmir, the area in Jammu Kandi should on this calculation be double

the area in Kashmir. Putting in terms of figures a unit of 128 *kanals* in Kashmir Maidani will come to 273 *kanals* of Kandi in Kashmir and 364 *kanals* in Jammu non-Kandi and 546 *kanals* for Kandi in Jammu.

(*ii*) Another method would be, taking 182 *kanals* as a unit both in Kashmir and Jammu Maidani areas the unit for Kashmir Kandi increased by 25 per cent would be 227 *kanals* and the unit for Jammu Kandi increased by 50 per cent would be 273 *kanals*.

(*iii*) The third method would be, taking the unit as 182 *kanals* for non-Kandi areas in Kashmir and increasing it by 25 per cent for Kandi in Kashmir which means 227 *kanals* and the productivity of Jammu non-Kandi being taken equivalent to Kandi area in Kashmir 227 *kanals* would be the unit for non-Kandi areas there. Increasing 227 *kanals* by 33 per cent the unit for Kandi areas in Jammu would be 300 *kanals*.

(*iv*) Yet another method would be to fix 182 *kanals* as an adequate unit for Kandi in Jammu area or any other land inferior to that even and the corresponding unit for other more productive lands being decreased in proportion to productivity.

After considering the above alternatives a more equitable solution of the problem would be to accept suggestion at item No. (*ii*) which fixes the ceiling at roughly 28 acres for Kandi in Kashmir and 34 acres for Kandi in Jammu as against a uniform unit of $22\frac{3}{4}$ acres now fixed. In cases where a proprietor has selected land from both Kandi and non-Kandi areas the unit should be fixed in Jammu by treating one *kanal* of non-Kandi land equal to $1\frac{1}{2}$ *kanal* in Kandi area, while in Kashmir one *kanal* of non-Kandi land should be taken equal to $1\frac{1}{4}$ *kanal* in Kandi area. If for any reasons it be not practicable to increase the size of the unit in Kandi area then the only alternative which suggests itself to the Committee is that the proprietor should be given a freer hand in regard to their unit of land.

18. *Proprietary unit for a tiller.*—Coming to the unit of proprietary holding fixed for a tiller it may be pointed out that the law has fixed no limit to the area of land that may be cultivated by a tiller whether the land is his own or that of another proprietor. The only limit imposed is in regard to the extent of land over which he can claim rights of

protected tenancy. The law has placed a limit on the extent of land he can possess as an owner namely 160 *kanals*. Every proprietor as such has been allowed to retain his ownership over a unit of 182 *kanals* but in the case of a tiller it has been provided that with the land transferred to him and that which he already owned he shall not possess more than 160 *kanals* in ownership rights. The tiller may be a proprietor of other lands in his own rights. Suppose he owns 150 *kanals* already, he cannot get ownership right over more than 10 *kanals* under this Act, even though he may be cultivating personally much more than that. Once he gets any land, however small, in ownership rights under this Act a ceiling is placed to the extent of his proprietary rights at 160 *kanals*. With regard to the land not acquired by the tiller under the Act he is under no obligation to till it himself and consequently that land can be let out by him wholly to tenants for cultivation like other proprietors. Under clause (c) of section 24 if a tiller sublets for two successive harvests land transferred to him his rights in that land would be extinguished and such land would escheat to Government. This provision would show that a tiller is required to till personally the land transferred to him but as would be clear from it this condition is not an absolute one and can be defeated by him if he so manipulates.

19. This brings us to the question of the extent of cultivating unit, namely the unit which a tiller would ordinarily be able to cultivate himself. As a tiller can retain ownership over the land transferred to him only on the ground of his cultivating it personally, the area of the land that may be transferred to him should not exceed a reasonable cultivating unit. The extent of a cultivating unit cannot be a fixed one but will vary with varying circumstances. The witnesses have suggested different sizes of a cultivating unit.

20. Under Section 15-A of the Tenancy Act 65 *kanals* of Khushki land in Jammu Province has been accepted as the maximum cultivating unit for a tenant. This appears to be a reasonable unit. It would be fair if ownership of land were transferred to a tiller to the extent of a reasonable cultivating unit and not more than that.

21. Under the present law if a tiller already holds 150 *kanals* in ownership he can get ownership rights over only 10 *kanals* more and if a tiller holds no land in ownership right he can get ownership right up to 160 *kanals*. However, once he gets any land under this Act he cannot acquire by purchase,

gift or even inheritance more than 160 *kanals* in all at any time. It does not appear fair to limit a tiller's future acquisition of ownership to 160 *kanals* when other proprietors can retain and acquire such rights up to 182 *kanals* as at present.

22. The Land Reforms Officer has given figures regarding the total area of land of which ownership has been transferred to tillers but has not got figures regarding the extent of land that has, on the average, been so transferred. Inability of the Land Reforms Officer to supply these and other figures asked for the Committee and also the evidence produced before the Committee leads it to the conclusion that no proper survey of land, tenants, proprietors holding in proprietary rights or tenancy, and tillers etc., was made in fixing various limits and units prescribed either under the Tenancy Act or under the Abolition Act. This has, to a great extent, handicapped the working of the Committee in so far as they could not arrive at definite conclusions to enable them to make specific recommendations to the Government where fixing of units etc. etc. was concerned.

23. An effort was made by the Committee to find out the number of tenants in the following groups :—

(*a*) Number of landless tillers and agricultural labour.

(*b*) Tillers holding five to ten *kanals* of land in ownership or under tenancy.

(*c*) Tillers holding ten to twenty *kanals*.

(*d*) Tillers holding twenty to thirty *kanals* or more.

This was put even to the Land Reforms Officer during the course of his evidence if he could even approximately give figures to enable the Committee to draw certain conclusions but unfortunately the Land Reforms Officer was unable to give these figures although he promised to do so when he appeared before the Committee in the month of March, 1953.

24. Witnesses almost everywhere have generally stated that the extent of land transferred under the Abolition Act was usually five to ten *kanals* and in some cases ten to twenty *kanals*. According to witnesses there was perhaps no tiller who got maximum land permitted under the law. The Land Reforms Officer having failed to give statistical information and

drawing upon our resources, namely that of the statements and memoranda submitted by various witnesses to the Committee, the general impression that one gathers is that the average holding of tillers does not perhaps exceed ten to fifteen *kanals*.

25. Considering all these matters the Committee is of the view that the first proviso to Section 5 should provide that the land in respect of which ownership rights may be transferred to a tiller together with the land already owned by him shall not exceed 65 *kanals* in Kandi area. If the tiller, as is provided at present under the first proviso to Section 5, is allowed to hold 160 *kanals* in ownership he will not be able to cultivate all this land himself and will have to employ tenant to cultivate a larger portion of the land. It is proposed that the maximum which a tiller can acquire in ownership right under the Act together with the land owned by him should not exceed 65 *kanals*. By lowering down the ceiling of the tenant from 160 to 65 *kanals* the land so released should be distributed among landless agricultural labour which consists of overwhelming majority and who clamour that they have not been benefited by the present laws because they did not happen to be the tenants of big landed estates. However, there should be no bar against such a tiller acquiring by purchase or otherwise further land in ownership right up to the limit permitted for a proprietor. In regard to his acquisition of land in future by contract or operation of law he should be placed on the same footing with other proprietors.

26. The Government have reserved the right of revising the quantum of land transferred to tillers under the Abolition Act and the Committee feel that this right, if it is to be exercised, should be exercised once for all. If they do it now, the suggestion made in the preceding paras would be implemented. For future there should be no element of uncertainty in the minds of the tillers for otherwise it would undermine production of food.

27. *Right of proprietorship over unculturable wastes*:— Whereas the operative part of sub-section (2) of Section 4 conferred absolute rights of ownership on the proprietor in respect of Kahi-Krisham areas, Araks, Kaps and such lands including those used for raising fuel and fodder as are unculturable, the proviso in effect took it away and vested it in the Government. When the Lands Reforms Officer was questioned about it he said that what was meant by this proviso was that the Government had power to appoint a committee

for making recommendations for the proper cultivation, management and preservation of the land. He conceded that the use of the word 'dispose' in the proviso was not happy. The proviso, therefore, should either be omitted or suitably modified.

28. *Escheat land and landless agricultural labour:*— There is no Tehsil having Kandi lands in which considerable area of such land has not vested in the State under Section 6 of the Abolition Act. As stated in Appendix IV Government is empowered to make rules in regard to the manner in which such lands may be utilised by Government and it is understood that rules on the subject have already been made. The *ex*-proprietor can also be permitted to retain possession of escheat land subject to such terms and conditions as are settled by the Revenue Minister or by the Officer authorised by him in this behalf. At almost every place we visited in Jammu Province the landless people complained that the lands mentioned above had not been distributed by the Revenue authorities fairly and only influential men had succeeded in getting them. They complained that landless people who belong to backward and poor class were ignored, and corruption had been rampant in implementing land reforms in different parts of the State. It was suggested that land reforms should have been implemented through a body of officials and non-officials. The Land Reforms Officer has, on the other hand, told us that in the distribution of such land priority had been given to landless tillers. According to him most of the land had been given to them. When questioned about *ex*-servicemen the Land Reforms Officer stated that preference may be given to *ex*-servicemen over landless persons in case they live in the same village and want to till the land personally.

29. It cannot be disputed that proper and equitable distribution of this land is very important and that it should be so effected that *ex*-servicemen and backward and landless classes are benefited to the largest extent. To achieve this end the Land Reforms Officer has suggested that after the Big Landed Estates Abolition Act is implemented and the extent of land vested in the State is ascertained, regional committees be set up to make allotments of such lands within a definite time. This suggestion of the Land Reforms Officer may appear to be sound in theory but the Committee has serious doubts as to whether the Government will succeed in revising the allotments so far made of the escheat land. The impression given to the Committee by the tenants generally in

their evidence was that they had for all practical purposes taken these allotments as permanent. In case committees contemplated by the Land Reforms Officer are appointed it is suggested that separate committees should be set up for each district and should include amongst others the Secretary of the District Soldiers' Board, local *ex*-servicemen and representatives of displaced persons. In making allotments of land interests of landless locals, local *ex*-servicemen and displaced persons should receive priority.

30. It may, however, be added here that it is not possible to put the whole population on land. If the land is not sufficient to be divided in a way so as to provide a living to the persons whom it is allotted, it is better to give that much land to a person as may be sufficient to provide him his living rather than to give a few *kanals* from which he may not be able to eke out his living. Village artisans who have some profession to fall back upon should be encouraged to stick to the professions they already had in hand rather than that they should hanker after land. For instance Village barbers, blacksmiths, carpenters, masons, cobblers, tailors etc. should stick to and pursue their own professions and not claim land over which there is already a great pressure. If these and other necessary steps are taken to ensure proper distribution of land some of the problems facing landless agricultural labour will be solved.

31. *Mortgages and leases.*—It has been represented to the Committee that some landlords have been hit hard by shifting of the burden of mortgage from the land transferred to the tiller to the unit of 182 *kanals* retained by the proprietors. Apparently the intention of the Government was that the land transferred to the tiller under the Abolition Act should go to him unencumbered. The provision shifting the mortgage to 182 *kanals* was made under Section 10 of the Abolition Act. While the Committee may not be inclined to suggest some relief to the proprietors in cases of mortgages that have taken place after 1st Katik, 2004, it is suggested that the Government may consider the *bona fide* cases of mortgages that have taken place prior to 1st Katik, 2004, for some relief to them.

32. *Selection of* 182 kanals *by the proprietors.*—The proprietors represented at some places that they were not served with notices for selecting lands for their unit of 182 *kanals* and, therefore, they did not select what they liked. The Land

Reforms Officer told us that some cases came to him in appeal where the proprietors had not been duly served with notices and he had set aside the selection made by the Revenue Officers in such cases.

33. On the other hand the tillers complained (*a*) that the proprietors had selected the best land for their unit of 182 *kanals* and (*b*) that some of them had actually to pay cash—in some cases as high as the cost of the land itself—to the landlords to get lands held by them excluded from the unit of 182 *kanals* selected by the landlords for themselves.

34. Regarding the first complaint no action is needed as the landlord had the right to select the best plot he liked but regarding the second the Government will be well advised if they either appoint a committee or ask the Deputy Commissioners of the Districts to examine specific cases in their respective jurisdictions and report to the Government for suitable action.

35. *Transfer of land or interest therein.*—Under Section 20 of the Act no interest in land, even as a temporary measure, can be transferred by a proprietor or tiller without the previous permission of the Government or the Revenue Minister to whom powers under this section has been delegated. The Land Reforms Officer told the Committee that the object of this section was to restrict speculation in land. The proprietors at many places have made a grievance of this restriction before the Committee. It was specifically complained that even making of wills by persons in fear of approaching death was not possible.

36. The ownership in land necessarily carries with it the absolute power of disposal over it. If there is no absolute power of disposal recognised by law the right of ownership will be a nominal one. The reason given by the Land Reforms Officer for imposing restriction on the transfer of land is not convincing. If the proprietor has been allowed to retain ownership rights over land there is no reason why he should not be able to dispose of his property as he likes. A proprietor in some cases may not consider it worth his while to retain his unit of land and may like to sell it to his tillers or may be in real need of money which he may not be able to raise without selling his land. It may happen that by the time he secures the requisite permission the transaction might fall

through. The Committee is of the view that there should be no restriction on the absolute right of a proprietor to transfer his land subject to the provisions of the Land Alienation Act.

37. The case of the tiller in regard to the land transferred to him under the Abolition Act stands on a different footing. Until Khariff 2007 he was a mere tenant and the Act conferred on him proprietary rights simply because he was personally cultivating the land at the relevant date. If he were given right to transfer such land it would defeat the very object with which it was transferred to him. If he got ownership right simply on the ground of his personal cultivation on a particular date the law should rightly insist on his retaining that qualification for a certain length of time. It would, however, be not fair to impose such a restriction on a tiller for all times. The Government may consider whether or not this disqualification, namely inability of a tiller to dispose of land transferred to him be removed after a certain period of time, to be specified by the Government.

38. *Fragmentation of land.*—Section 22 of the original Act which was deleted by the Amendment Act of 2008 prohibited partition of land if as a result thereof the size of the holding was reduced to less than 12 acres. Perhaps the one matter on which the land reform measures in other countries are unanimous is that there should be no fragmentation of land below a certain limit considered to be an economic unit. If at any time mechanised farming or collective farming is introduced it will be necessary to have larger holdings. On the other hand if fragmentation of holding is prohibited it may be necessary to provide for succession to land under the law of primogeniture which will operate harshly against a large number of members of the family for they will be thrown out of land. In that event it will be necessary to devise measures for providing subsistence to them. As has been already said in an earlier part of this report 65 *kanals* of land in Kandi is a reasonable unit for cultivation and it is suggested that fragmentation of a holding below 65 *kanals* by partition should not be allowed.

39. *Jurisdiction of Civil and Revenue Courts.*—It was contended before the Committee by certain witnesses that Section 32 barring jurisdiction of Civil and Revenue Courts to hear suits relating to matters dealt with in the Abolition Act should be repealed. The legal position of interference by the Civil Court under Section 32 of the Act has been discussed under

item No. (*c*) page 5 of Appendix IV to which a reference is invited. On principle much can be said in support of this contention as Civil rights should be subject to adjudication by Civil Courts but we do not propose the repeal of the above section solely on practical grounds. If this section were repealed there would be countless civil suits and it would perhaps be difficult to devise adequate machinery to deal with them. The result would be that almost the whole rural population would be dragged to Civil Courts and involved in protracted and costly litigation. The gain that may be had by a successful party in such litigation should be nothing compared to the expense and trouble involved. It is, however, suggested that inspection on spot by the Deputy Commissioners of Districts be made and a certain percentage of cases decided by the staff appointed for implementing the provisions of the Abolition Act be examined to ensure that its provisions are correctly followed and enforced.

40. *Tenancy Act.*—Having discussed the questions arising under the Big Landed Estates Abolition Act we now take up the questions arising under the Tenancy Act.

41. *Relations of landlords* vis-a-vis *tenants.*—Throughout the tours of the Committee there was hardly any place where it did not find the relations between the landlords and the tenants strained. Landlords were very loud in their complaints against the tenants and said that the tenants refused to pay them due rent and that they had no effective remedy to enforce payment of the same. They said that they were helpless as the ejectment of the tenants was now practically impossible. Tenants on the other hand complained that the landlords harassed them in more than one way and involved them in litigation of all sorts and that they had consequently no peace.

42. The Committee has been impressed with the fact that the recent Land Reforms in Kandi areas under the Tenancy Act and their implementation have perhaps resulted in considerable estrangement between landlords and tenants and this the Committee considers unfortunate not only for the the parties but for the country as a whole. With such an estrangement the productivity of land is bound to suffer. If our reforms fail in increasing productivity of land and establishing stable and harmonious relationship between landlord and tenant they cannot be said to have achieved their object. It is only when the entire rural population is

contented and satisfied that the country can be happy and prosperous. That there has been a prejudice in favour of the tenant and against the landlord in the reforms introduced and their implementation was but natural but the duty of seeing that the respective rights of both the landlords and the tenants as given to them under the Law as it stands are well safeguarded falls on the Government.

43. *Protected Tenancy.*—The Law relating to Protected Tenancy has been discussed at item No. (*a*) in Appendix IV. It cannot be denied that it is desirable to give a certain measure of protection to tenants and that in the larger interests of the rural population the institution of Protected Tenancy is a good one and that it should be upheld. There are, however, a number of matters which need examination and further consideration. They may be discussed as follows :—

(*a*) Clause IX of Section 15-C of the First Amendment Act of 2005 as referred to at item No. *a* (*vii*) of Appendix IV excluded certain lands mentioned therein including lands let out by persons serving in the army from protected tenancy. This clause was deleted by the First Amendment Act of 2007. When a question for restoration of the original clause IX was put to the Land Reforms Officer he stated that he had no objection to restoring it only so far as men on active military service were concerned. We are of the opinion that the original clause should be restored in its entirety as the other classes of persons mentioned therein are physically incapable of cultivating the land personally. The benefit bestowed by the operative part of the clause is practically taken away by the proviso added to it and in order to give full scope to the clause we would further suggest the deletion of the proviso.

(*b*) As a certain minimum time limit for possession over land by a tenant had to be fixed to entitle him to the rights of protected tenancy and as this could not but be arbitrary, we do not propose to disturb the time fixed by Law. A period of six years continuous possession for acquisition of such rights in future is also a reasonable period but here we would like to suggest a little change. A landlord may institute a suit for ejectment of a tenant and that suit may take a long time and then the decree passed in the suit will be subject to more than one appeal. The final decision in such a suit may take several years and it may take further time before the decree is satisfied in execution. It would be unfair and unjust if the time

spent in such litigation were allowed to be counted towards the time for acquisition of the protected tenancy. We would suggest that an explanation to the following effect be added to Section 15-A.

EXPLANATION.—The time spent in a suit for ejectment of a tenant up to its final decision and the time spent in execution of the decree obtained in the suit shall be excluded in counting the period of six years mentioned in the section.

(c) A protected tenant is not liable to ejectment on the ground of a decree for arrears of rent passed against him remaining unsatisfied but an accupancy tenant is liable to ejectment on that ground. When the Land Reforms Officer was questioned about it he took up an untenable position and stated that he would like to extend the concession given to a protected tenant in this behalf to an occupancy tenant as well and when he was asked as to what sanction there would be behind the rent decree if it was not followed by ejectment he stated that it may be followed by ejectment only if it remained unsatisfied for a period of six years.

There can be no denying the fact, and we find it in the definition of the term "tenant" as given in the Act, that the first basis of tenancy is the liability of the tenant to pay rent. If a tenant fails to pay rent as it falls due he should be considered to have forfeited his right as a tenant. The mere fact that he has left rent in arrear should be sufficient to disentitle him to any protection under law. A tenant should be given no protection under law if rent is left in arrears by him even after a decree is passed against him by a revenue court. The present position is not only anomalous but is indefensible in-equity. Under it the landlord may institute suits for arrears of rent for every year as they fall due, obtain decrees but fail to obtain satisfaction of the decrees by execution and yet remain a helpless spectator because he is unable to eject such a defaulting tenant. If this state of affairs is allowed to continue it will be foolish for a landlord to waste time and money earned from other sources on suits for arrears of rent. The Committee is of the view that the existence of an unsatisfied decree for arrears of rent should be a ground for ejectment of a protected tenant in Kandi area just like an occupancy tenant.

The Committee is further of the view that in the general interest of food production and in the interest of the landless

or other tillers it is necessary that the land of proprietors who keep it fallow for two consecutive crops should be given to the landless tillers.

(*d*) *Khud-Kasht limit for a proprietor*.—One of the grounds for ejectment of a protected tenant is that the landlord requires the land *bona fide* for his personal cultivation. But this ground has been kept subject to the proviso that the total of the land already held by the landlord in his personal cultivation and the area of tenancy from which ejectment is sought does not exceed 17 *kanals* of Abi or 33 *kanals* of Khushki. A landlord may have sufficient man power in his own family and he may be able to cultivate a much larger area of land than the one prescribed above. It is suggested that a landlord should be allowed to cultivate at least 65 *kanals* in Kandi area in Jammu and proportionate area in Kashmir Kandi based on the formula enunciated earlier provided he cultivates the land himself without engaging agricultural labour.

44. As pointed out already, when the extent of protected tenancy was raised to 33 *kanals* of Abi or 65 *kanals* of Khushki in the case of Jammu Province the extent of landlord's Khud-Kasht land there was not similarly raised. The explanation of the Land Reforms Officer for this omission was that the landlord was taking to farming for the first time and further that if his "Khud-Kasht" unit was raised it would dislocate a large number of tenants. There is no force in this contention. We have no doubt in our mind that the omission to raise the extent of the "Khud-Kasht" land for the landlords in Jammu Province to 33 *kanals* of Abi or 65 *kanals* of Khushki was accidental and not intentional. While amending Section 15-A in regard to this matter the making of a necessary corresponding amendment in the proviso to clause (*c*) of Section 45-A appears to have been omitted through an oversight. There is no limit in law to the extent of land that a tenant may cultivate otherwise than as a Protected Tenant. There is likewise no prohibition to a landlord's taking land from other proprietors for cultivation under them and that too without a limit, or for cultivating any area of his own land if he has no Protected Tenant. The Committee is of the view that the limit of "Khud-Kasht" land in Jammu Kandi (with proportionate figure for Kashmir Kandi) should be raised to 65 *kanals* and, therefore, the present proviso to Section 45-A should be amended accordingly. The policy of the laws should have been to welcome and encourage cultivation of land by proprietors themselves and not to relegate them to the position

of intermediaries which is the intention of the land reforms to abolish.

45. We agree with the principle that only as much land should be held by a landlord as would be cultivated by him personally and this principle should equally apply to the tenant as well. It is suggested that a landlord should be allowed to cultivate at least 65 *kanals* in Kandi in Jammu (with proportionate figure for Kashmir Kandi) provided he cultivates the land himself without engaging agricultural labour. In fact the Committee would go a step further to make the whole position consistent with the basic idea of giving the "land to the tiller". The Government should consider the fixation of certain criteria under which no family has more land for personal cultivation which is beyond its tilling capacity and for which at present landless tillers or agricultural labour is engaged by such proprietor or tenant. While fixing such criteria the Government will certainly take into account the size of a particular family and the members of that family who are capable of working on the land. Land held by a proprietor or a tiller beyond his tilling capacity could be utilised by allotting it directly to landless tiller and agricultural labour who would become tenants in their own right and not be hired by the proprietors or fortunate tillers as at present. This is based on what has been deposed before the Committee by certain witnesses that some tillers are actually faring better than proprietors of lands at some places in so far as their tenancy holdings are much bigger than they can cultivate at present on the basis of their family strength.

46. Unfortunately this inequality has not been removed by the Big Landed Estates Abolition Act in so far as the land in excess of 182 *kanals* has been transferred not to the landless tillers or the agricultural labour but to tenants who happened to be on that land before the Abolition Act was intorduced. Moreover while transferring this land the fact that the average holding in tenancy was ten to fifteen *kanals* both in Jammu and Kashmir Provinces was practically lost sight of as otherwise people having much more than this average in tenancy should not have been allotted out of this transferred land more till the requirements of the landless tiller and the agricultural labour had been satisfied considering the pressure on land.

47. *Khud-Kasht.*—In accordance with the principle enunciated above "Khud-Kasht" shall have to be clearly

defined, if not already done, as a unit to be cultivated personally. This, however, may result in hardship in cases of proprietors or tenants who are infirms, ills, physically incapable of cultivating etc. and for these we have already proposed that clause IX of Section 15-C which has been deleted should be re-enacted to provide for all such cases.

48. *Rent.*—Coming now to the important question of rent reference may be made to item (*b*) of Appendix IV on page XL wherein the present law on the subject and its effect have been briefly stated. The fixing of one-fourth rent for Abi lands and $\frac{1}{3}$rd for Khushki lands for tenancies over 100 *kanals* and one-half for tenancies upto 100 *kanals* and below does not seem to be scientific or rational. The Committee does not find any rational ground for making an invidious distinction in regard to rate of rent by reference to the area of tenancy involved. The various suggestions that were made in regard to this question are as follows :—

(*a*) (*i*) If the rate of rent has to remain the same as at present for tenancies of 100 *kanals* and below, the rate of higher tenancies should be changed to the extent that the change affects only the excess over 100 *kanals*.

(*ii*) That the rate of rent may be fixed at one-half upto 100 *kanals*, one-third from 101 to 150 *kanals* and one-fourth from 151 to 182 *kanals* with marginal adjustments.

(*b*) That the margin of adjustment be made with a view to securing to the proprietor of over 100 *kanals* whatever he would have received for 100 *kanals* and that he may not receive any rent for the land exceeding 100 *kanals* subject to the condition that the land revenue for land above 100 *kanals* is paid by the tenant.

(*c*) The rate of rent may be made uniform for the whole holding either at one-half or at one-fourth or at any other percentage, which may be fixed uniformly for the whole holding irrespective of its size.

49. In regard to the suggestion at (*a*) it may be stated that to a casual observer it may appear equitable but after it is examined closely it will be clear that this suggestion is very complicated and difficult of implementation. It would mean that a part of the land of a proprietor will be liable to

higher rate of rent and the other part of the land to a lower rate. Under this arrangement there will be tenants under the same proprietor who will have to pay one-fourth of the produce to the proprietor and others who will have to pay one-half. Any attempt on the part of the proprietor to select tenants for the higher rate of rent and for the lower rate of rent is bound to be resisted by the tenants. This will mean a great confusion and will result in a class-war between the tenants *inter se* and between the tenants and the landlords. This suggestion will, therefore, create insurmountable difficulties and the Committee does not support it.

50. The suggestion at (*b*) above, if closely examined, will amount to this that the proprietary holding of 182 *kanals* will in effect be reduced to 100 *kanals*. The tenant will have to pay one-half of the produce to the landlord for the first hundred *kanals* and for the balance the tenant will not pay anything and will be responsible to pay the revenue for the remaining holding. This does not appear to be a proper solution of fixation of rent as it will amount to the reduction of the proprietary holding and not the fixation of rent.

51. Coming now to the last suggestion, namely that of fixing a uniform rate of rent, the Committee is of the opinion that it is the only practical, convenient and equitable solution of the problem. By fixing a uniform rate of rent for the whole holding the difficulties referred to hereinbefore will be completely obviated.

52. The only question that calls for consideration is the rate that should be proposed. At this time the law provides rent at the rate of one-half for tenancies not exceeding 100 *kanals* and at the rate of one-fourth if the tenancies exceed 100 *kanals*. It may be pointed out that in actual practice if the law is enforced in its spirit the advantage to the tenants in the shape of reduced rate of rent is more apparent than real. This has been impliedly conceded by the Land Reforms Officer in his memorandum. At page 17 he says :—

> " It may also be pointed out that the tenancies exceeding 100 *kanals* undergo a process of sub-division through inheritance and succession, whereby the size is reduced with the result that the successor landlords automatically get the benefit of receiving a higher rent than one-fourth or one-third which the predecessor landlord used to get from the tenants."

53. It is clear that as soon as the landlord's holding

comes down to 100 *kanals* or less, and this must be the inevitable result in almost all cases as soon as the present landlord dies, the tenant will have to pay enhanced rate of rent, namely at one-half. How will a tenant who used to pay one-fourth/ one-third rent to the previous landlord reconcile himself to the payment of one-half rent as soon as the said landlord dies leaving more than one successor. The result will be that a tenant will, in the changed circumstances, refuse to pay the enhanced rent and the landlord who attempts to demand higher rate of rent will be resisted by him.

54. It has been represented before the Committee that the present invidious distinction in the rate of rent has led to discontentment as some tenants have to pay one-half of rent and certain others one-fourth. A single tenant may have to pay one-fourth to one landlord in respect of one tenancy and and one-half to another landlord in respect to another tenancy. It was represented before the Committee that this distinction in the rate of rent is one of the main causes of dissatisfaction and bitterness between the landlords and the tenants, and between the tenants themselves. It is natural that where there are landlords holding more than 100 *kanals* tenants will vie with one another and try to get hold of their fields while the fields of smaller landlords will not be sought after by the tenants. The present law on the subject has given rise to complications and also to, what may be called, class-war between the landlords and the tenants on the one hand and the tenants *inter se* on the other. As already pointed out above on the death of present landlord and succession of more than one heir on his death and the consequent reduction in the size of the landlord's ownership to below 100 *kanals*, the tenants of the entire land will have to pay one-half rent. In these circumstances the Committee are of the opinion that the rate of rent should be uniform for all lands irrespective of the size of the holding or tenancy as suggested above.

55. There is yet another factor which has an important bearing on the question of rent. In Jammu Province the State's share was fixed on the basis of half net assets standard and in Kashmir Province 30% of the gross produce was fixed as State's share. The State's share was fixed at the above standards on the assumption that the landlord would get rent at the rare of one-half of the produce. If the landlord were to get rent at the rate of one-fourth of the produce it would mean that in Jammu Province he would be entitled to get only about that much of produce as he would be liable to pay as

land revenue. In Kashmir Province the landlord will get 25% of the gross produce but will have to pay 30% of the produce as land revenue. If one-fourth of produce were proposed as rate of rent the landlord in Kashmir Province would have to pay about 5% from his earnings from other sources. It may be added that the settlement authorities have generally allowed one-half of the produce to the tenant and one-half to the landlord. If authority were needed in support of the above observations, reference may be made to para 43 on page 28 of the assessment report of Shahr-i-Khas Tehsil of the year 1977 which reads as under :—

> "The workable standard of State's share has been adopted at 30% of the gross produce. The matter was fully discussed in Mr. Talbot's review of the six Tehsils of the Valley on pages 27 to 30 and in the recently settled Tehsils of Kashmir. I see no reason to depart from this standard and adopt it for this Tehsil too as it was sanctioned by the Darbar."

Towards the end of para 36 on page 28 of the same assessment report, after giving the table showing how the rates recorded worked out, it is remarked as follows :—

> "These rates (Stage No. 3) are doubtless intended to represent owner's one-half share of the produce."

56. During the course of rercording evidence by the Committee a question was asked as to why the landlords have retained their ownership over land which in view of the above circumstances had, instead of being an asset, become a liability. The reason given by witnesses for retaining the land was that the prices of foodgrains at this time were much higher than the prices estimated at the time of settlement. It was stated that if revenue were payable in kind instead of cash then as a result of the reduction of rent to one-fourth the landlords should have been compelled to surrender their lands to the Government.

57. Considering all the facts stated above the balance of advantage appears to be in favour of fixing rent at a uniform rate for all holdings irrespective of their size. The Committee accordingly suggest a uniform and equitable rate of rent to be fixed by the Government.

58. (*a*) *Ejectments.*—Before the Tenancy Amendment Act No. XIII of 2007 a tenant-at-will was liable to ejectment on the issue of a notice of ejectment under Section 50. The tenant had the right under law, on receipt of such a notice, to contest his liability to ejectment and in the alternative to claim

compensation. Even in that summary procedure for ejectment sufficient legally enforceable safeguards were provided to the tenant. Now a tenant including a tenant-at-will, who is a tenant from year to year, is not liable to ejectment except in execution of a decree for ejectment. This means that even if a tenant for one harvest is sought to be ejected the landlord has no cheap and easy remedy and must institute a regular suit for his ejectment. A decree passed in the suit will be subject to more than one appeal and after the decree is upheld by the highest Court he will have to apply for the execution of the same. All these proceedings will necessarily take several years and involve not only the landlord but also the tenant in protracted, unnecessary and expensive litigation. A tenant-at-will, being merely a tenant from year to year, will ultimately be ejected from the land but only after involving him and the landlord in costly litigation. Neither of the parties will be benefited thereby.

59. It was explained before the Committee by landless persons that the proprietors prefer to allow their lands remain fallow and uncultivated rather than give them to tenants. If there be any truth in this complaint it is attributable to the changed law relating to ejectments. The Land Reforms Officer explained why the change was made in the law in regard to ejectments. He stated that some times it happened that a proper notice was not served on the tenant and he was ejected without having recourse to any remedy. In order to remedy this difficulty Section 50 of the Tenancy Act was deleted and a tenant was liable to ejectment only by means of a regular suit and the execution of the decree obtained in that suit.

60. It might happen in rare cases that with the collusion of the landlord a notice may not be duly served on the tenant but this difficulty can be remedied in some other way than it is done now. The present procedure adopted is, as pointed out above, very lengthy and expensive. It is not only troublesome to the landlord but very inconvenient and irksome to the tenant as well. The Committee has received complaints from tenants that they have been dragged to the Courts by the landlords and much of their time and money is wasted in the Courts. Moreover the landlord will not trust his tenant and he will necessarily resort to direct and indirect means of harassing him and bring about his ejectment which will lead to all sorts of litigation between them. If there be a provision for summary ejectment as there was before, with all necessary safeguards provided for, the relations between the landlord

and the tenant will greatly improve and become harmonious. The tenant will feel a moral obligation to cultivate his landlord's land properly and pay his due rent and the landlord will have no reason or desire to trouble his tenant and take proceedings for his ejectment unnecessarily. With the improvement of relations between the landlord and the tenant the production of food will increase and it will result in the prosperity of the country. Even proprietor-tillers at various places represented to the Committee that where they gave their land to some tillers for purposes of cultivation it was difficult for them to get their land back for personal cultivation.

61. The Committee, therefore, proposes that the present Sections 47 and 48 should be repealed and old Sections 47,48 and 50 of the Tenancy Act restored with necessary safeguards to eliminate the possibility of collusion in obtaining spurious service of the tenant. This would meet the object of the amendment referred to above.

62. It is further proposed that in view of the fact that the principle of tenancy is based mainly on rent and its payment, the non-payment of rent should form a ground for ejectment of any class of tenants.

63. (*b*) Section 15-C gives a list of all lands in respect of which protected tenancy cannot be acquired. As a necessary corollary of it, it is proposed that tenants of all such lands should be liable to ejectment on the issue of a notice of ejectment. Section 15-C includes land situate in cities, town and notified areas. A provision for summary ejectment of tenants of these areas will contribute greatly towards all round improvement and growth of these areas.

64. (*c*) A brief reference may be made to Section 57-A of the Tenancy Act. It provides for summary reinstatement on land of tenants dispossessed otherwise than in due course of law. The limitation for making of the application under that section has been practically kept at the discretion of the Revenue Minister. The Committee is of the opinion that it would be preferable to lay down limitation specifically in the section itself as we have it in Section 15-B. The Revenue Minister first fixed two years from 1st Baisakh, 2007, and subsequently extended it by another two years. The time already fixed will elapse with the end of the year 2010 that is to say, after nearly a year. It is suggested that Section 57-A be suitably amended so as to limit the limitation for such applications up to the last day of Samvat year 2010.

WORKING OF LAND REFORMS IN LADAKH DISTRICT.

65. *Gardens—Exemption from Abolition Act.*—While the Committee was in Ladakh the proprietors appeared before the Committee in large numbers and they were unanimous on this point that the unit of 182 *kanals* was not sufficient for their requirements taking into consideration the productivity of the land and the inferiority of the soil in that *illaqa*. They, however, laid special emphasis on the fact that they were not allowed to retain gardens which were specially excluded from the unit of 182 *kanals* on the ground that they did not grow fruit trees. They had, with great difficulty, planted trees of willow and poplar for the purpose of fuel and timber. They have not been allowed to retain these gardens because not growing fruit trees they did not come within the definition of orchards.

66. The Committee travelled on ponies for about 22 miles in Leh Tehsil and found that there were hardly any trees throughout the area. Only in small plots the people had at some places planted willow and poplar trees which are utilised as timber for the construction of the houses and for fuel. Instances have been met with where proprietors have given up areas under cultivation in order to retain the gardens containing these trees. If a proprietor is allowed to retain orchards containing fruit trees elsewhere there seems stronger reasons for allowing a proprietor in Ladakh to retain an area in which he has grown trees for the purpose of timber and fuel considering scarcity of fuel and timber in that *illaqa* and also the fact that what are known as orchards elsewhere are gardens growing willow and poplar trees here.

67. The Committee proposes that *bedzars* and *safedzars* and gardens having trees in Ladakh District should be allowed to remain with the proprietors in addition to the prescribed units.

68. *Gumpa lands—Exemption from Abolition Act.*—In Ladakh it was represented to the Committee by the tenants as well as the proprietors that the lands which are attached to the religious institutions of theirs called *Gumpas* should be excluded from the operation of the Abolition Act. It was rather surprising that the tenants who were likely to gain by the operation of the Act on the lands attached to the *Gumpas* have unanimously desired that these lands should remain attached to the *Gumpas* and be free from the operation of the

Abolition Act. It was specially enquired from them why they were in favour of retention of the land with the *Gumpas*. Their reply was that the lands which were attached to the *Gumpas* were cultivated by the tenants and they had to pay only $\frac{1}{4}$th of the produce to the *Gumpas*. The *Gumpas* share of produce was utilised for educational, religious and charitable purposes and for feeding the poor and the needy and, therefore, they would like that the *Gumpas* should not be divested of these lands. It would hurt their religious feelings in case the Act was made operative on these *Gumpa* lands.

69. The Committee was told that on their representation the operation of the Act had been suspended for the time being by an executive order of the Government yet the demand of the public at large was that the exemption of the *Gumpas* from the operation of the Act should be incorporated in the Act itself. This suggestion is commended to the Government for favourable consideration.

RURAL CREDIT.

70. Lastly the Committee would like to add that throughout the Muffasils of the State where they had the opportunity of going they were distressed to find that along with the land reforms introduced in the State no facility had been provided for rural credit. Before the introduction of land reforms a villager could borrow for the purpose of agriculture from either his landlord or from the money-lender. It is no doubt true that the money-lender took under advantage of the simplicity of the villager but there should have been some other agency provided by the State to replace that money-lender so that the villager could have got every facility to obtain credit in the rural areas. From the Co-operative Department we learnt that there are Co-operative Credit Societies in some parts of the State ; but as stated by witnesses, these societies were not functioning properly and are not advancing money to the poor and needy agriculturists who have, therefore, to find some means to secure credit for the purpose of agriculture. From the information supplied by the Registrar, Co-operative Societies, we learn that during the years 2006, 2007 and 2008, the Agricultural Credit Societies in Jammu issued Rs. 14,388, Rs. 19,016 and Rs. 32,804 and in Kashmir Province during these three years the Agricultural Credit Societies issued Rs. 28,282, Rs. 72,285 and Rs. 64,514 for the purpose of seeds, payment of land revenue, purchase of implements, purchase of cattle improvement of land, and for purchase of

fodder. These figures speak for themselves and show clearly that Co-operative credit societies have not come handy regarding rural credit at a time when all their other sources had disappeared. We shall have to say much more about the functioning of the Co-operatives in a latter part of this report.

71. The Committee received heart-rending accounts from these agriculturists and would, therefore, recommend that co-operatives having failed, the Government should provide speedy facilities for rural credit and relieve the agriculturists' distress on this account.

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SUMMARY OF RECOMMENDATIONS

I.—The inconsistencies, anomalies and inequities as pointed out in Appendix IV be removed.

II.—The maximum unit for a proprietor in Kashmir Kandi should be fixed at roughly 28 acres and for a proprietor in Jammu Kandi it should be fixed at 34 acres.

If for any reasons it be not practicable to increase the size of the unit in Kandi areas then the proprietors should be given freer hand in regard to their unit of land.

III.—The maximum a tiller can acquire in ownership under the Abolition Act together with the land owned by him should not exceed 65 *kanals* and there should be no bar against such a tiller acquiring by purchase or otherwise further land in ownership right up to the limit permitted for a proprietor.

IV.– There should be equitable distribution of land particularly in favour of landless tillers and the agricultural labour.

V.—The Government may consider the *bona fide* cases of mortgages that have taken places prior to 1st Katik, 2004, for some relief to them.

VI.—There should be no restriction on the absolute right of a proprietor to transfer his land subject to the provisions of the Land Alienation Act.

VII.—The Government may consider whether or not the disqualification, namely inability of a tiller to dispose of land transferred to him be removed after a certain period of time to be specified by the Government.

VIII.—There should be no fragmentation of land below 65 *kanals* by partition.

IX.—To ensure that the provisions of the Big Landed Estates Abolition Act have been correctly followed by the staff appointed for implementation thereof the Deputy Commissioners of districts should inspect on spot a certain percentage of cases decided by the staff.

X.—Clause IX of Section 15-C of Tenancy Act as enacted in the Amendment Act of 2005 be restored with the proviso omitted.

XI.—The following explanation be added to Section 15-A of the Tenancy Act :—

> " The time spent in a suit for ejectment of a tenant up to its final decision and the time spent in execution of the decree obtained in the suit shall be excluded in counting the period of six years mentioned in the section."

XII.—An unsatisfied decree for arrears of rent should be a ground for ejectment of a protected tenant.

XIII.—Land of proprietors who keep it fallow for two consecutive crops should be given to the landless tillers.

XIV.—A landlord should be allowed to cultivate (without engaging agricultural labour) at least 65 *kanals* in Kandi area in Jammu and proportionate area in Kashmir Kandi.

XV.—The Government should consider the fixation of certain criteria under which no family has more land for personal cultivation which is beyond its tilling capacity.

XVI.—Fixation of a uniform and equitable rate of rent for all holdings irrespective of their size.

XVII.—Sections 47 and 48 of the Tenancy Act be repealed and old Sections 47, 48 and 50 restored with necessary safeguards to eliminate possibility of collusion in obtaining spurious service of the tenants.

XVIII.—Non-payment of rent should form a ground for ejectment of any class of tenants.

XIX.—Tenants of lands enumerated in Section 15-C should be liable to ejectment on the issue of a notice of ejectment.

XX.—Section 57-A be suitably amended so as to limit the limitation for such applications up to the last day of Samvat year 2010.

XXI.—*Bedzars*, *Sajedzars* and gardens containing trees in Ladakh District should be allowed to remain with the proprietors in addition to the prescribed limits.

XXII.—Exclusion of *Gumpa* lands from the operation of the Big Landed Estates Abolition Act commended for favourable consideration.

XXIII.—The Government should provide speedy facilities for rural credit.

WORKING OF THE SYSTEM OF PRICE AND OTHER CONTROLS PREVALENT IN THE STATE.

WORKING OF THE SYSTEM OF PRICE AND OTHER CONTROLS PREVALENT IN THE STATE.

The second question referred to the Committee for consideration and report relates to the working of the price and other controls prevalent in the State. This question covers the following controls, namely :—

(*a*) Controls on essential commodities ;
(*b*) Transport control including petrol rationing ;
(*c*) Food control ; and
(*d*) House and shop rent control.

These will be discussed *ad seriatim*.

CONTROL ON ESSENTIAL COMMODITIES.

2. We first deal with the control of essential commodities and it shall be discussed separately for the Provinces of Jammu and Kashmir and the District of Ladakh.

3. The commodities at present controlled are sugar, salt, cloth, yarn, cotton, cement, iron and steel and a few other commodities like drugs and fuel in Kashmir.

4. The Committee has received memoranda from various persons dealing with controls. From these memoranda the Committee gathers that World War II brought in its train great economic slump and acute shortage in the supply of commodities essential to the life of the community in India. Controls, being a creation of World War II, were introduced because essential commodities were in short supply and the object underlying was to have their equitable distribution on fair prices. This had its effect on the supplies in the State also as almost all the essential commodities such as salt, sugar, cloth, kerosene oil, etc. were purchased and imported from the producing centres in India. Supplies ran short in the State and in order to ensure adequate supplies and their equitable distribution both in the towns and Muffasils at fair prices, the State Government had to fall in line with the rest of India in regard to the general policy of controls over essential commodities. Import quotas of different commodities were secured on the basis of average imports during the previous years and their distribution at reasonable prices was arranged through the Supplies Department which was specially set up to attend

to this work. Orders to control import, movement, supply and distribution of various commodities were issued from time to time beginning from the year 1939.

5. In 1947 Pakistan raids greatly disturbed the economic structure of the State resulting in acute shortage of essential commodities. The transport system was paralysed and normal channels of trade were disrupted. The Government had, therefore, to make special arrangements for the purchase and import of essential commodities. We have it from the Director General, Food and Supplies' statement that in the beginning of 1949 when the position became somewhat stabilised and the Supplies Department started functioning after reorganisation the control over import, storage, distribution and prices of controlled commodities was properly rationalised. During the last four years the controls in the State had been modified from time to time to adapt them to the changing conditions and have been kept in a dynamic state keeping in view the best interest of the consumer.

6. Controls were introduced obviously with the best object and served their purpose for a particular period of time especially during days of shortage of essential commodities in India. Continuance of controls in the State was justified because the rates of essential commodities in general had gone up because of the raids.

Jammu Province.

7. We take up Jammu Province first and deal with the controlled commodities in that Province. All the essential commodities excepting cloth have lately been decontrolled in Jammu Province. These items will be discussesd below.

Cloth.

8. Cloth is controlled in Jammu Province only to the extent of 20% and it is, therefore, not necessary to go into the details of the controls obtaining from time to time. We shall confine ourselves to the system of control as it exists at present. Hand-loom and power-loom cloth is entirely decontrolled. It is available in free sale in India and its import into the State and free sale here is unrestricted. There is no control over its distribution and price. The only restriction is that this cloth can be sold by those persons who hold licences from the Supplies Department. The licencees are

authorised to sell not only the controlled varieties of cloth but also the decontrolled varieties.

9. The Director General, Food and Supplies, stated that the present policy in regard to control over cloth in Jammu Province is almost the same as that in India. Previously there was control on all varieties of mill-made cloth but now control over fine and superfine cloth has been lifted and there are no restrictions on their import, sale and distribution in Jammu Province. Now 80% of the previously controlled coarse and medium cloth available in free sale in India is freely permitted to be imported into Jammu Province and sold by all cloth dealers and only 20% of coarse and medium cloth, namely grey sheeting, long cloth and shirting are under controlled distribution. A quota of these varieties of cloth is allotted to our State by the Textile Commissioner of the Government of India.

10. The share of the above 20% of coarse and medium cloth allotted to the State is imported through Jammu Cloth Syndicate and sold through retail licencees of cloth under controlled distribution. The Supplies Department has fixed the margin of profit for wholesale and retail sale of cloth. The Director General in his memorandum says that the existing wholesale issue prices of cloth were 20% over ex-mill price in the case of the outer zone and 17% over ex-mill price in the case of the inner zone and in the case of retail sale 29% over the ex-mill price for the outer zone and 26% over ex-mill price for the inner zone. He has, in his memorandum, given the break-up of the price for the outer as well as the inner zone. In the case of wholesale the break-up includes profit at the rate of 3% on landed cost and in the case of retail sale at the rate of 9%. The Government premium in both cases was 2%. He has further stated that under Government orders tenders were invited for the appointment of district nominees for the import of cloth allotte d by the Textile Commissioner into Jammu but no tenders were received which showed that the margin of profit fixed at present was the minimum and there was no scope for further reduction. It has further been stated that 2% premium on the small quota of controlled cloth received at present did not cover even the administrative charges.

11. From the oral and documentary evidence it appears that only 20% of coarse and medium cloth is under control and all other varieties including fine and superfine cloth are

not under control and their import and sale is not restricted. This 20% coarse and medium cloth is imported into Jammu Province through the cloth Syndicates and then given over to retail licencees for sale. It is, therefore, clear that the extent of control on cloth is now very meagre and we have it from the Director General that the above policy in regard to cloth is the same as that obtaining in India. The reason why 20 % of the above varieties are controlled is that they are controlled at the source, their distribution being controlled in India.

12. From the memorandum submitted by the Director General it appears that the break-up of the wholesale price of the controlled varieties of cloth consists of overhead charges which include customs duty, freight, loading, unloading and Pathankote Agency commission. It also includes 2% of the Government premium. While a profit of 3% on wholesale may be reasonable, a profit of 9% on retail sale is rather high. It should be in no case more than 4% to 5%. There are, besides small items of overhead charges which can be eliminated or reduced and it should easily be possible to reduce the issue price in consequence.

13. It should not be difficult to bring the wholesale price to a much lower figure than what it is at present. The one matter in this connection—and it is an important matter—is that it was alleged by many witnesses that the prices of cloth in India are coming down very fast and that in open market cloth was available from at 10% to 25% and even more, below the ex-mill price. It was also alleged that the ex-mill price as stamped on the cloth was much more than that at which it was actually sold and, therefore, it cannot be taken to be correct and it was wrong to work out wholesale price on the basis of the incorrect inflated ex-mill price.

14. It has further been alleged that with regard to 20% controlled cloth that is sold through the Syndicate in Jammu arrangements for its supply are actually made through the Supply Officer Bombay. This results in receipt of cloth that may not be actually in demand in the Province as well as in the possibility of the consumer not obtaining the advantage of any fall in prices below the ex-mill prices. The purchase through the Supply Officer Bombay has come under trenchant criticism before the Committee and it has been alleged that—

(*a*) The Supply Officer Bombay is not expert to select cloth according to the needs of the State.

(*b*) He selects inferior cloth and at the ex-mill price marked though the market price is much below the ex-mill price and in fact the witnesses have gone so far as to say that the Supply Officer in collusion with the mills selects the cloth which the mills could not otherwise dispose of at the ex-mill price and diverts the same towards the quota for Jammu and Kashmir State.

(*c*) When a mill finds that some variety of cloth cannot be disposed of by it the Supply Officer is approached so as to arrange lifting of that inferior quota for the State.

15. The Committee do not know what truth there is in these allegations but they would certainly urge upon the Government to institute immediate investigation into the matter.

16. Meanwhile the Committee would strongly recommend that even if there is 20% cloth controlled in India, the Jammu Syndicate should have absolutely a free hand in selecting their quota and the mills from which they like to lift to enable them to import the controlled cloth in Jammu. In fact the Committee would go as far as to recommend that the Jammu and Kashmir Government should intervene in requesting the Textile Commissioner to make allotments from the mills and of the varieties which the Syndicate would like to buy.

17. The Supplies Department should make sure that the ex-mill issue price as marked on cloth is really the price at which that cloth is available in India. As there is very little control on cloth in India and in Jammu Province, the Committee would suggest that licences should be issued freely to all the dealers, regardless of the fact that they have been dealing in cloth before or not and that they should be encouraged to get as much supply of decontrolled cloth into the State as they like so that by competition the price will automatically come down.

18. The Committee has not been able to appreciate the basis for restricting sale of decontrolled cloth including hand-loom cloth to licence holders. There is no justification for restricting the sale of decontrolled cloth by licencees as that would be an indirect way of exercising a measure of control over it. In the opinion of the Committee there should be no

restriction on the sale of decontrolled cloth and any one should be at liberty to import such cloth and sell it. The issue of licences for sale of cloth should continue only with regard to those varieties of cloth which are still under control, namely 20% of the coarse and medium cloth.

19. The licence fee charged at present is Rs. 5 and the renewal fee of the licence is also the same. It is suggested that the fee Rs. 5 for grant of licence may continue but the fee for its renewal every year should not be more than Rs. 2.

YARN.

20. It was stated that 50% of yarn is now available for free sale in India and, therefore, it had been decided to allow free import of yarn by licencees subject to ceiling prices and to stop yarn import on Government account for Jammu Province. It was further stated that consumers will have the option to obtain their supplies either from the existing Government stocks or from the private importers. The wholesale and retail issue prices of yarn at Jammu were 12% and 13¼% over ex-mill prices respectively.

21. In regard to yarn it would be desirable that private import of yarn by our dealers from free sale in India be encouraged. The Committee was told at Samba that the yarn imported by the Government was not at all useful as the counts and specifications of yarn were not those which were in demand in that area. The stocks of yarn could not, therefore, be lifted in Jammu, as also because of the fall in prices in India, resulting in accumulation of huge stocks which were proposed to be diverted to Kashmir for disposal under control. If the dealers were to import the yarn on their own they would have imported yarn of proper counts and specifications for which demand in the locality existed. By allowing private dealers to import the required yarn the actual demands of handloom weavers would be fully satisfied.

COTTON.

22. In India there are no restrictions on the sale of cotton except that its inter-State movement is controlled and as such it is being imported into the State on the permits of the Textile Commissioner Bombay. The State appoints nominees, after inviting tenders, and these nominees import cotton into the State. The present monthly quota of cotton is 95 maunds

which, after being imported into the Jammu Province, is sold without quantitative restrictions on ceiling prices fixed by the Department. The existing issue price was Rs. 1/2/- per seer in Jammu. The only control which exists in India on cotton, therefore, is on its inter-State movement. In these circumstances the import of cotton through nominees is necessary. It is, however, suggested that nominees should be appointed district-wise and even Tehsil-wise, if possible, so that cotton is readily available in every Tehsil.

SALT.

23. Control over salt has been lifted in India with only restriction of its movement from one State to another except under a permit from the exporting State. This control is exercised through the Salt Controller. It has been stated by the Director General that in the prepartition days salt was imported through private dealers but due to conditions created by disturbances the nominees appointed for import of salt could not arrange supplies of adequate quantities and, therefore, it was decided to import salt on Government account to ensure adequate supplies. The supplies of salt at reasonable prices were freely available in all parts of Jammu Province, even in far flung areas and even a *karyana* dealer was permitted to sell it without quantitative restrictions subject, however, to price control. In his statement before the Committee at Srinagar he has further stated that it is understood that the Government of India have asked for the opinion of the various States whether or not even this restriction should be removed. If the Government of India released this condition on the recommendation of the State Government, if they so think proper, there is no reason why salt be controlled at all in Jammu Province. If, however, that does not happen soon, it is suggested that nominees should not only be appointed district-wise but efforts should be made to appoint Tehsil nominees. These district nominees appointed by the Supplies Department to get supplies from outside can be made to distribute salt to the Tehsil nominees and not themselves act as retail dealers.

SUGAR.

24. In regard to sugar the Director General has stated that it was being imported through nominees after inviting tenders that there was no restriction on its sale throughout the Province of Jammu and that wholesale and retail prices per maund were Rs. 38 and Rs. 38/12/- respectively. In

the rural areas price varied according to transport and other incidental charges. It appears, however, that after decontrol of sugar its price in Jammu has gone down further with the result that sugar there is being sold at annas fourteen a seer, *i. e.* Rs. 35 a maund in retail sale.

25. In regard to sugar and salt the position in Jammu Province is satisfactory and is improving as the decontrol of these commodities has led to a general fall in prices. In regard to sugar it is, however, suggested that there should be no restriction in regard to its import as sugar is available in open market in India without any restriction on its movement. There is, therefore, no justification for restricting its import into Jammu Province. Any dealer, big or small, should be at liberty to import whatever quantity of sugar he likes without any restrictions.

CEMENT.

26. The distribution of cement in India is controlled by Government through the Cement Marketing Company. The State's monthly quota is 250 tons out of which 130 tons are imported into Jammu Province through the agents of the Cement Marketing Company of India. It is sold under controlled distribution on the permits of the Supplies Department. The Director General has stated that it was proposed to appoint fresh stockists by inviting tenders but according to arrangements made between the Government of India and the Cement Marketing Company our State Government could not interfere in the agencies approved by the latter and, therefore, the proposal was dropped.

27. It appears that the Cement Marketing Company of India employs its own agency for import of cement into the State but it does not mean that the agent approved by that Company is necessarily to deal with it both as a wholesale and retail dealer. All that the Company can insist upon is that cement shall be imported only by their agent or agents and to that extent there may be no objection, but to permit that importer to be the sale distributing agent, wholesale and retail, is not in the interest of the consumers in general. The Committee was told in Jammu that the control price of cement was about Rs. 17 per bag whereas in the market a bag of cement was available at times even for Rs. 9. This shows that there is some defect in the control and it would be in the interest of the consumers if the Supplies Department can take

measures ensuring that the wholesale and retail business in Cement is not conducted by a single agent of the Company. It is proposed that the agent of the Company should be required to confine his work to the import of cement and not to deal in wholesale or retail business. Further if necessary the Government of India or the Cement Marketing Company should be approached not to give the monopoly or agency to a single dealer in the State and in particular in Kashmir Province. They should be requested to appoint a few agents belonging to the Company itself, who will only deal in wholesale disposal of cement in competition among themselves and allow other dealers to have retail sales. The agents of the Company so appointed should be required to confine their work to import of cement and not to deal in retail business. The agent or agents of the Company should be asked to supply cement to the city as well as to district nominees to be appointed by the Supplies Department. In fixing the ceiling prices the rate of profit should be calculated on the ex-factory cost and not on the landed cost including overhead charges. In calculating landed cost the invoice of the Company should be examined and also the customs permit in regard to the import duty paid. The margin of profit should be the same as it is in India.

28. This is very astounding that, as referred to above, cement in black-market should sell at half the controlled price. The question naturally arises as to what is the source of this cement in the open market which is a controlled commodity. It has been deposed by some witnesses that this cement comes from the Government construction works, the estimates of which are prepared making provision for supply of cement by the Government and because the requirements of cement are over-estimated, the cement thus saved from the execution of these works goes to the black-market and is sold at reduced rates. If this allegation be true then certainly this is a very serious matter for the Government to investigate and to take such action as be deemed necessary in this behalf.

Iron and Steel.

29. In regard to iron and steel the system seems to be nearly the same as in regard to cement. Here again we make the same suggestions as made in regard to Cement.

30. It is further suggested that the control policy in regard

to these commodities should be exactly the same as it is in India and only those categories should be controlled here as are under control in India and all categories decontrolled there should, in no case, be under control here. The registered stock holders should confine themselves only to the import of commodities and not deal in wholesale or retail business of these. Sub-dealers should be appointed to deal in wholesale and retail business, both in the city and district headquarters. The import and distribution of decontrolled categories should be allowed freely in the State by any dealer subject only to price control. The margin of profit and the landed cost should be calculated in the same manner as proposed for cement. It is further suggested that the distribution of categories needed for local industries should either be done by the Industries Department or in consultation with it.

Kerosene Oil.

31. In regard to kerosene oil the only control exercised by the Supplies Department is that on price. A ceiling price has been fixed and the oil company has given a guarantee for keeping adequate supplies throughout the Province at all times. This guarantee has been fully adhered to by the oil company and the arrangement thus made is working satisfactorily. Inspite of the fact that kerosene oil has been decontrolled there is no scarcity of this commodity and the prices have gone down.

Kashmir Province.

32. *General.*– The system of control as obtaining in the Kashmir Province is entirely different from that of Jammu Province. In Kashmir Province cloth, sugar, salt continue to be controlled commodities. They are not only controlled in the sense in which this term is generally used but they are the commodities in which the Government itself trades. The commodities are imported into this Province on Government account, stocked in Government godowns and sold through Government agencies.

33. This is not the only difference between the system prevalent in Jammu and Kashmir Provinces. Another main point of difference between the systems as obtaining in the two provinces is that whereas the distribution of these commodities in Jammu was made through licensed dealers appointed by the Supplies Department except in the case of Reasi Tehsil

where the Co-operative Stores had the monopoly of distribution for a short time, in Kashmir the monopoly of distribution in the whole Muffasil was given to the Co-operative Stores which monopoly was shared by the licensed dealers for the city of Srinagar only. The business in the controlled commodities is wholly done and managed by the Government.

34. *Co-operative Stores.*—During our tours in the Muffasils of Kashmir Province we were greatly distressed at the almost unanimous demand from the people at large including unsophisticated peasants at almost every place in huge public gatherings that all that they wanted was that they be relieved from the tyranny of the Co-operatives. In Shopian we were greeted by a number of persons carrying placards on which it was written "Down with the Controls". The Cooperative movement no doubt is a movement of social service. A healthy co-operative movement conducted in the best interests of general public is a great asset to the society. We have been amazed to find so much hatred and distrust towards the co-operative movement. It is a pity, however, that in actual practice such a laudable movement should have been implemented in a manner so disadvantageous to the consumer that it has created hatred and distrust in the minds of the peasantry. The people, one and all, spoke against this movement and wanted to get rid of it as soon as possible. Apparently the co-operative movement has not been functioning well which has completely destroyed its utility. In fact the Committee feel that the co-operative movement has received such a setback that it is doubtful if it can ever rehabilitate itself in the Muffasils of Kashmir. The peasantry in general take it as a sort of scouge of which they have begged us to relieve them as early as possible. We should have expected the co-operative societies to have contributed towards the service of the rural population but to our great surprise and dismay the reaction of the people has been otherwise. The co-operative movement has not only lost prestige, respect and confidence in the rural population but has, on the other hand, earned a bad repute for numerous ills which the people have enumerated before the Committee.

35. The co-operatives have not done much in the discharge of their fundamental duties and responsibilities of providing rural credit but have in recent years switched over to other multifarious activities and become regular business organizations dealing with essential commodities including the procurement and purchase of foodgrains. The Committee sought

enlightenment from the Director General, Rural Departments, who claimed to be keenly interested in the work of the co-operative and multi-purpose societies, as to what was responsible for the bitterness in the minds of the people living in Muffasils against these co-operatives. His reply was :—

> " I am grieved to hear that those persons who came to depose before the Committee spoke generally against Co-operative Department but I hope the Committee will take note of it that bulk of these men were those who were either some members of the Co-operative Organisations, Presidents of the Stores, thrown out salesmen or dismissed Accountants who either on party faction or for their self grievances gave vent against this Department, or those were shopkeepers who feel that this movement snatched their bread. I never submit that there are not black-sheep in the Co-operative movement. In fact there are and we have punished dozen of these black sheep in these last five years, but what I submit is that this movement with all its short-comings has eliminated black-market to a very great extent and unfortunately this credit is not being given to the zealous workers and members of this Department. I move in villages much more than any other Officer of the State and I have a proud privilege to be looked upon by the peasant not as his Officer but as his co-worker. It is entirely incorrect to say that majority of the salesmen or storekeepers are corrupt and they deal in black-marketing. Wherever we have received complaint we have made thorough enquiries and after this we have punished the culprits.
>
> My firm conviction is that we have eliminated black-market to a great extent than it would have been otherwise."

The Director General was told by the Committee that in open public gatherings where they had four to five thousand people at a time and where the witnesses were deposing in their mother-tongue and were understood by the whole assembly it was put to the people whether the condemnation made by a particular witness of the co-operatives was shared by them and that with one voice and by raising their hands the whole assembly would say that they were in agreement with the evidence of such a witness. It was further pointed out to the Director General that the Committee did not satisfy itself with such show of hands alone but also put it to the people that if any body had to say anything in favour of the present working of the co-operatives he was at liberty to depose before the Committee, but not a single soul stood up. The Committee selected out of the gathering some people whom the Committee considered as really representing the rural population and asked their opinion about the controls and co-operatives. The Director General was further told that the Committee went to certain places without sending their

programme and they contacted peasantry there on their own who had the same woeful tale to tell. Certainly all this clearly shows that the evidence produced before the Committee was not tutored and we are fully satisfied that people expressed their genuine feelings in an honest and straight-forward manner. We shall have more to say regarding the working of co-operatives in Muffasils while dealing with the specific allegations made against them at a later stage.

36. *General Examination of Controls.*—The Controller of Supplies, Kashmir, was asked as to whether he was prepared to decontrol cloth, sugar and salt in Kashmir Province to the extent they were decontrolled in Jammu Province especially when supply admittedly exceeded the demand. The only answer that has been made by him was that due to geographical conditions it was not considered expedient to relax controls over these commodities. His contention is that whereas in Jammu Province the rail-head is very near and traffic remains open for the whole year and supplies are available at all times, it is not so in the case of Kashmir. In Kashmir not only is there a large distance of 200 miles from Jammu but the road remains blocked for three or four months every year due to blockade of Banihal Pass. His fear is that if these commodities are decontrolled in Kashmir it may not be possible to get sufficient supplies available for the winter months and that it will lead to businessmen creating artificial scarcity by cornering these things and raising their prices abnormally. The Controller of Supplies has further mentioned that if supply of commodities sufficient for three or four months of winter in Srinagar were guaranteed there could be no objection to decontrolling these commodities. The Director General, Food and Supplies, on being examined regarding decontrolling of sugar and colth to the same extent as in Jammu, admitted that he would have no objection. He, however, expressed hesitancy in agreeing to decontrolling of salt mainly on the ground of difficulty in obtaining wagons for its transport from the source. The Committee examined a number of witnesses in Srinagar including the President Chamber of Commerce, Beopar Mandal, and several other trading organisations. Their considered opinion was that the fear of prices rising because of Banihal Pass remaining blocked during three or four months in winter or due to rains was absolutely unfounded. Their view was that when State trading was finished and controls abolished, the traders who had been in business for generations would be careful in keeping adequate supplies available throughout the year. They

stated that businessmen would not only get the things from the cheapest shops available in India but would also transport them to Kashmir when the transport charges were low. Such traders would not like that the money which they had invested should remain locked up for a long time. On the other hand they would like to sell the commodities and convert them into liquid money. Some of the traders have brought to our notice the case of tea which is used in abundance in Kashmir and it was stated by them that in spite of the Banihal Pass remaining blocked for nearly three months the price of tea did not shoot up and there was abundant supply of this commodity throughou. Kashmir Province. In fact they said that the price of tea kept pace here with its fall in the Amritsar Market in winter. Their general view was that they will keep stocks available at every time according to the requirements. They went to the extent of saying that they would give a guarantee to that effect to the satisfaction of the Government if the Government has any fears on that account. The Chamber of Commerce stated in regard to this matter as follows :—

> " It is fully conscious of the difficulty involved in the regular transport and flow of commodities for about three months in the winter season when the land communication is blocked due to snow and frost over the Banihal Pass. This is a matter of great concern to the Chamber of Commerce. Notwithstanding this fact the Government should not have been induced on this account to deprive the private trade of their enterprise when regular supplies within the ceiling prices were assured and guaranteed. This guarantee, the Chamber reiterates emphatically, still-stands."

In para 23 of its memorandum it mentioned further :—

> " The Chamber considers that it is unnecessary at the stage to give any concrete suggestions with regard to each controlled item but once the principle of decontrol is accepted by the Government, the Chamber would suggest the appointment of a Board of Trade comprising of officials and representatives of the business community to advise and direct in this behalf."

38. With very few exceptions the witnesses in general supported the views expressed by the trading bodies that with the decontrol of commodities there was no fear of the prices scaring up in winter months. They, however, generally agreed that some sort of safeguard should be provided for ensuring adequate stocks during winter months. It was suggested by them that the traders be asked at the beginning of winter to keep in stock these commodities in such quantities as may suffice for a period of four months and that they should be

subject to inspection by the authorities of the Government to verify that these stocks were actually stored by them. The other suggestion that has been generally made was that the Government should itself stock such quantities as will be required for a period of four months in their godowns so that if the stocks in the market ran short the Government may release their stocks to meet any possible emergency.

39. It may be mentioned here that the necessity of having reserve stocks would arise mainly in the case of salt which is universally consumed and to a certain extent only in the case of sugar being commonly consumed usually by middle class. In the case of cloth, the necessity would not at all arise as in winter months in Kashmir mill-made cloth except limited varieties of coarse cloth are not generally in demand and therefore, any large reserve stock of cloth will not be needed, As already stated the witnesses have in general expressed that some safeguard for building up four months stocks in winter should be provided for but the Committee had it from some witnesses, among whom were well educated and experienced people, who stated that they would prefer facing risks in the absence of stocks rather than let the present system of control continue.

40. Some witnesses have even gone so far as to say that if the worst came to the worst essential commodities could be carried by head loads from Banihal to Verinag when the Banihal Pass is closed at an additional maximum cost of Rs. 2 per maund. These witnesses took us back to history when we had neither J. V. Road nor Banihal Road and described to us as to how essential commodities were carried from Punjab to Srinagar those days. The witnesses protested in general against Government taking the business in its own hands and depriving healthy competition among private businessmen, to the disadvantage of the consumers not to speak of petty village traders who have been deprived of earning their livelihood.

41. The impression of the Committee after hearing people both in the Muffasils and in the city is that the public feeling really is against the present system and they favour entire decontrol of all these commodities, and their import, distribution and sale through private agency in the Province. In spite of our explaining to practically every such witness the possible risk which decontrolling of these commodities might entail, *e. g.* hoarding, profiteering, the creation of artificial scarcity by cornering, in fact reminding them of the worst time

of 1947-48, they adhered to their own views which they have so emphatically expressed. They stated that the conditions had completely changed and there was no such fear if normal trade channels were allowed to function freely.

42. As regards the question of providing adequate stocks for winter in Kashmir it has been suggested that a guarantee should be taken from leading business organisations guaranteeing adequate stocks of these commodities throughout winter months within the ceiling prices. The trading organisations have expressed readiness to give such a guarantee in the shape of stocks or personal security. The Committee are confident that a reasonable guarantee in this behalf will be readily forthcoming. The other suggestion is that Government should itself build up stocks of these commodities, which may be sufficient for the winter months say from November of each year till the end of April next when such stocks can be disposed of every year. The little amount that may be locked up or the little financial loss that the Government may have to incur will be worth while to make a fool proof arrangement against all possible risks.

43. The Committee would further recommend that the Government should accept and implement the policy of decontrol forthwith in Kashmir on exactly the same lines as has been recommended for Jammu. In view of the difficulties pointed out the Government will certainly make necessary safeguards as stated above either in the form of their having their own reserve stocks for winter months or by obtaining adequate guarantees from the business community in the manner in which they consider these guarantees can be effective.

44. *Co-operative Stores—Monopoly of distribution.*—Coming to the monopoly of wholesale and retail business as enjoyed at present by the Co-operative Stores, the Committee have no hesitation in observing that they have not been able to find any justification for granting monopoly to the Co-operative Stores in the distribution of essential controlled commodities. namely cloth, sugar and salt. The grant of this monopoly has not only been detrimental to the interests of the entire trading community in the Muffasils by throwing them out of business but has also operated adversely against the consumer. It is only when there are more dealers than one in the field and the spirit of competition is introduced that the consumer can expect efficient and cheap service. When there is no competition the interests of the consumer cannot easily be safeguarded and he will have to be at the mercy of the monopolist. This

system of granting monopoly does not appear to be wise or useful. If the Co-operative Stores were intended to be encouraged all that was necessary to do was to let them function in competition with other traders of the Muffasils. The Co-operative Stores should have been one distributing agency and should bave been made to compete with other trading agencies in the locality.

45. *Financial aspect of State trading in essential commodities.*—Before referring to the grievances of the people relating to supply and sale of controlled commodities by these Co-operative Stores, it will be of interest to have an idea of the profits made by the Control Department and the financial aspect of the working of this system.

46. For the quinary 2005-2009, the control laws put into motion to combat commodity famine and to police the market on certain main items of daily mass consumption, salt, sugar and cloth have resulted in a net excess of sales realised by the Control Department over the landed cost, including interest to the tune of round about a crore of rupees in the case of Kashmir alone.

47. Total finance involved in procurement and overheads of these commodities amounted to Rs. 725 lacs. Assuming frequency of rotation of capital at 3-4 cycle a year of the average, the initial outlay would thus stand at Rs. 210 lacs. The net return of Rs. one crore on this outlay works to a return of 50% on the whole. This, however, excludes the premium levied on such commodities as kerosene oil, iron sheets and pipe etc. over which only price control was applied.

48. Compared to the rate of commission allowed to the city dealer and excluding freight and local taxes, rationing of the commodities in the Muffasil through the mediation of the Kashmir Province Co-operative Stores (K. P. C. S.) threw an additional impact of Rs. 8 lacs on the rural population, superimposed on the porportion, assignable on the quantity consumed in the Muffasil out of the initial profit of Rs. one crore made by the Control Department, while fixing their issue rate ex-godown.

49. Rationing of the essential commodities to the city consumer is the last of the successive processes of—

(*i*) Procurement at source of manufacture ;

(*ii*) Transport, Railway and road up to Base godown at Srinagar;

(*iii*) Issue to the Retail Dealer ; and

(*iv*) Issue to the consumer.

For the Muffasil consumer in between items (*ii*) and (*iii*) is interposed the K. P. C. S. and the wholesaler, besides transport from the K. P. C. S. (or control Base Godown, both having been housed shoulder to shoulder) to the lowest rung of the local Co-operative ladder. How far these processes have worked in the past to the comfort and relief of the consumer, especially the rural consumer and provided for him reasonable opportunity of obtaining his supply, in fair quantity and at a price within average reach is one which naturally strikes one who is concerned with a review of these measures.

50. The question as to what should be the fundamentals of the policy of the Control Department in the fixing of issue rates is an important one. The decision depends on how it is viewed at ; whether it is a Government Department like any comparable department of civil administration say the Police and Judiciary concerned with the prevention of mass exploitation by making available to the public in fair quantities ordinary items of supplies at the rock bottom cost when the ordinary trade channels have failed to or refrained from doing so ; or whether the Department should commercialise its activities in the normal trade spirit or again being in a specially advantageous position of the monopolist, over-commercialise by stretching the issue rates farthest from the landed cost. If the middle course of commercialisation is considered to be best suited to the financial status of the State, it would have the effect of fixing the issue rate at a figure equivalent to the actual landed cost plus interest on the capital outlay at the bank rate. In a healthy economic structure all forms of trade converge in the ultimate analysis to an uniform return round-about the bank rate. In the case of this State, the bank rate would be substituted by the rate of interest chargeable on loan issued to it by the Government of India which bears interest at $3\frac{1}{2}$ per cent. P. A. On this a slight element might be added on account of wastage and incidentals raising the total overhead to 4 per cent. P. A. In so far as sugar and salt are concerned capital is rotated in a greater frequency than every three months, but cloth takes longer. Assuming the average rotation between three and four months, the issue rate should have included not more than 1 per cent. P. A. to cover the actual charge the State had to meet on rationing the commodities, cost of establishment, godown

and contingent services being borne by the State as in the case of other general administrative departments. On that basis a total impact of Rs. 7 to 8 lacs should have fallen on the entire consumer population of Kashmir as against Rs. 110 lacs representing the difference between the landed cost and the sales, for the quinary 2005-2009. Evidently the policy adopted in the past in the Control Department has been of the over-commercialisation type.

51. For the city consumer the only intermediary between him and the Control Department is the retail dealer. There is nothing in the margin allowed to him to excite comment and it is well within the normal trade principles of retail sale.

52. The mediation of the whole hierarchy of the Co-operative Society Organisation has, on top of all other items of over-growth, placed the rural consumer in the most unenviable position more so as the system has been legalised as the only one open to him. In fixing the sale rate of the Muffasil consumer Control Department has taken into consideration the factor of—

(*i*) Freight ;

(*ii*) Local Taxes ;

(*iii*) Wholesale (K. C. P. S & Store HQs) ;

(*iv*) Loading and unloading ; and

(*v*) Profit.

In the break-up of the difference furnished to the Committee between the sale rate of Control Department for sugar and salt and the selling rate to the Muffasil consumer the element of freight varies *inter se* for the same period as Re. 1/8/- per maund has been included for sugar throughout the years 1949-52 while in the case of salt it varies between Re. 1/7/- and Re.-/15/- per maund. Visibly the element of freight has been fixed without due and careful regard to the actual charge on freight as distinguished from the Control rates which are to be regarded as the ceiling limits, and are in the generality of cases much higher than are obtainable in the course of normal competition. The approximately correct estimate of the total excess charge made on the Muffasil is not capable of being calculated though there is no doubt that it could be considerably slashed.

(*ii*) Local taxes charged are as due under the local bye-laws.

(*iii*), (*iv*) & (*v*) Loading and unloading charges are not separately paid to the city dealer and the difference allowed to him between the issue rate of the Control Department and the authorised sale rate is supposed to cover it. Apparently this charge allowed to K. P. C. S. is extraneous. Dealers' commission whether wholesale or retail is only another name for profit and the inclusion of both is redundant as also wholly unmaintainable in social or even in economic justice. Apart from the capacity of the local purchasing power, some code has to regulate the profit element. Taking an average charge of annas two for loading and unloading also as virtually commission, the rural population has been pressed down by a weight of over Rs. 8 lacs judged by the standard of element allowed to the city dealer, besides the proportionate burden of the profit of Rs. one crore made by the Control Department the impact of the natural disadvantage of distance from Base godown to the point of destination in the interior of the country and the local tax. The Co-operative Organisation is essentially one of such which has to deal with and occupies the position of offering direct constant service to the public. In the implementation of control measures the Co-operative has fed itself on the too scant means of the average peasant and has by doing so prevented the availability of the essential goods on easier terms in the Muffasils or at least on a parity with the city consumer. This has reacted not only on the standard of living but also on the opinion, the Muffasil should rightly hold as to how far the Government is alive to its responsibility of providing maximum comfort within their means. This has large obvious implications both economic and political.

53. Total profits made by the Control Department in rationing sea salt, sugar and cloth are as below :—

		Rs.	
Salt	..	12,73,169	(Rock salt kept out as having insignificant margin).
Sugar	..	26,20,378	
Cloth	..	36,77,599	
	Total ..	75,71,146	
Plus freight excess	..	33 84,495	
	Total ..	1,09,55,641	

54. *Specific allegations against Co-operative Stores.*—The Committee shall briefly refer to a few of the grievances of the people relating to supply and sale of controlled commodities by the Co-operative Stores :—

(*i*) It was generally complained before us that best portions of essential commodities were selected at various stages whether it was Supplies Department, K.P.C.S., District Co-operative or Tehsil Co-operative Union and taken out and sent to black-market by the workers of these bodies and only inferior stuff trickled down through these organisations and reached the village shops. Even the village salesman and accountants had their bit by making the last and final selection of good stuff and giving it to the adjoining shops for sale in the black-market and retainig the most inferior stuff in the shops for the poor zamindars who would come to them and be refused supply many a time before they could actually get it.

(*ii*) It was generally complained that influential members of the Stores and the influential persons in the village took away all good and useful cloth from the Stores for their own use and for the use of their friends and left inferior things for being sold to the general public. At one place the witnesses said that they were obliged to purchase *dhotis* for use as a sort of cover over the head of their women-folk and the best cloth they were able to get from the Store was no better than that used by Pandits as a loin-cloth.

(*iii*) It was also complained that the Co-operative Stores sold privately in the black-market the controlled commodities and that the responsibility for black-market was that of these Stores alone.

(*iv*) At some places a new disclosure was made by the witnesses. It was alleged that the controlled commodities were not delivered on payment of money but in exchange of food-grains, the result being that the Store recovered price much higher than the controlled price by barter system and sold foodgrains at exorbitant prices.

(*v*) It was alleged that they were forced to purchase Italian salt which was more expensive, the sale price of sea salt being Re.-/4/6 per seer and that of the Italian salt being Re.-/7/- to Re. -/7/6 per seer. It is understood in this connection that because the Government had purchased rock

salt and were keen to dispose it of instructions had been issued by the Supplies Department that consumers should be allowed their quota of salt at 50-50 basis so far Indian salt and rock salt were concerned. The complaint in this connection was that whenever a consumer in Muffasil went to a Co-operative Store for his quota of salt he was told that Indian salt had already finished and the only salt available in the Store was rock salt and if he wanted it he could take it at Re./7/6 a seer. If he refused to buy Italian salt the only alternative for a consumer in such a case who needed salt for daily consumption at home, was to go to a black-market shop.

(*vi*) It was alleged that even though cloth, salt and sugar were exclusively dealt with by the Stores a large quantity of these was available everywhere with them private traders and that the same had been got by them from the Stores in the black-market. This could be possible because of the ineffective check of any departmental agency over proper accounting of issues recorded in books maintained by the Co-operative Stores. In this connection the Committee examined the sale register of Multi-purpose Society Gundsar Singh in Niabat Gandarbal on the 9th Baisakh, 2010. The entries in the sale register of Italian salt mostly had thumb impressions upto 20th of Poh, 2009, but they were mostly absent after that date. The thumb impressions also did not look above suspicion. The other register was from 1st Baisakh, 2010, in regard to other commodities but the sale entries had no thumb impressions or signatures except against a few entries of 8th Baisakh. The inspection register showed that the books had been examined at least once every month and sometimes more than once by officers of the Co-operative Department but their inspection was confined to books alone. They never took the trouble of verifying if the commodities shown as sold to particular persons were in fact sold to them. At some places the Committee noticed all kinds of shops working side by side, one that of the Co-operative Stores and the other dealing separately with commodities not under control but also having stocks of controlled commodities. In some cases if one shop was run by the father the other was run by the son as a representatives of the Co-operative Store. In the absence of any effective check no reliance can be placed on the record maintained in the form of books showing receipts, issues and acknowledgements of consumers in the books and this must be responsible for the availability of controlled commodities in the black-market. This was put to the Deputy Registrar Co-operative Societies Kashmir when he appeared before us and he

could not satisfy us even in theory about the effectiveness of any check in this direction prescribed by the Department.

55. The above mentioned charges levelled against the Stores in general almost everywhere are very grave. The other grievances related to the details of the working of the Co-operative Stores affecting the convenience of the people :—

(*i*) It has, for instance, alleged that the control shops remained open from 10 A.M. to 4 P.M., and these are the hours when the zamindars were not generally free.

(*ii*) It was alleged that if a person died late in the afternoon or on a holiday it was difficult to bury him that day because due to the shop being closed, cloth for his shroud could not be available.

(*iii*) It was also said that at places no shop existed within a distance of five or six miles and it caused much inconvenience and trouble to people to cover such long distances for making petty purchases.

(*iv*) There was another grievance of the zamindars that they could not get small quantities below a certain minimum from controlled shops and sales on credit were absolutely unknown.

(*v*) Lastly it was pointed out that these shops remained closed almost everywhere from one week to ten or twelve days towards the end of Chet, 2009, because they had to do stock-taking and accounts with the result that the people had to resort to black-market and to pay black-market prices to private traders who had got these commodities from the Stores themselves.

56. As already stated the Stores not only manage the wholesale business but also the retail business. They have got their godowns at a number of places for whole sale and retail business ; loading and unloading takes place at a number of places. Profit on wholesale and retail sales are also charged. There is yet another matter. The Co-operative Stores have their own transport also. They purchased vehicles and registered them as private carriers and, therefore, they could carry only their own goods and not goods of other persons. The result was that while transporting their goods from one place to another they had to perform the return journey without

any load. It has been stated by the Deputy Registrar, Co-operative Societies, Srinagar, in his memorandum that "their vehicles suffered a loss of Rs. 3 per trip because of the above restriction". The Commitee fail to understand why in spite of these difficulties the Stores had their own transport vehicles.

57. It may be added here that, as was but natural in the case of a monopoly, the Co-operatives have throughout made huge profits even after allowing very handsome allowances to some of their workers. According to a statement filed by the Deputy Registrar, Co-operative Societies, Kashmir, 14 Stores have in a period of four years from 2005 to 2008 earned a net profit of Rs. 11,30,510. It should be of interest to the Government to note as to how these huge profits have been utilised by these Co-operative Stores. Whether these have been disposed of strictly in accordance with the Co-operative Societies Act under which these Stores are expected to work or not, should be a matter for the Government to investigate.

58. From the above it is clear that so far as Kashmir Province is concerned the lot of the people of this Province on the economic side is much worse compared to that of the people of Jammu Province. In the Jammu Province generally, excluding of course Poonch and Kishtwar, all the things are available at much cheaper prices than those obtaining in Kashmir Province. The consumers in Jammu have to pay very little on account of transport from the rail-head. It is Re. 1 per maund from Pathankot to Jammu and as against this a consumer in Kashmir has to pay in addition Rs. 5 per maund as the charges of transport from Jammu to Srinagar. Besides, loading and unloading takes place at a number of places involving additional cost and because of the long distance from Jammu to Srinagar there is likelihood of some wastage. Added to this is the fact that in the Muffasils the distribution was centered in the hands of the Co-operative Stores who added their own percentage and overhead charges. All these things contribute to much higher prices in Kashmir Province as compared with the prices in Jammu Province.

Cloth.

58. (*a*) The Committee may now refer to a few facts relating to the working of controls. The system prevailing in regard to cloth is that the Supplies Department gets cloth from Indian through the Supply Officer, Bombay

The only item of cloth not under control here is hand-loom and power-loom cloth whereas only 20% of coarse and medium cloth is under control in Jammu. In Kashmir every variety of mill-made cloth, fine, superfine, coarse and medium is under control. The issue price of cloth in Kashmir Province ex-godown is 25% over ex-mill price and retail price is 34% over ex-mill price. It may be added here that under a recent Government Order the ex-godown issue price has been reduced from 25% to 21% over ex-mill price. It was a matter of great surprise for us to learn that a temporary premium of 6% had been added to it with effect from 14th Maghar, 2009. In Jammu Province the Government premium on cloth was 2% but in Kashmir it has been $4\frac{1}{2}$% and to this 6% had further been added. The premium earned by the Department on the sale of cloth in Kashmir during three years 2006 to 2008 is as under:—

		Rs.
For the year 2006	.. ..	6,08,201
For the year 2007	.. ..	12,76,752
For the year 2008	.. ..	6,51,481
	Total ..	25,36,434

This will show that the Department has made considerable profit on the sale of cloth in Kashmir Province. As already stated an additional premium of 6% had been temporarily imposed with effect from 14th Maghar, 2009, and the reason given by the Controller of Supplies Kashmir, for this temporary increase in premium was that the Department had suffered a loss on account of the accumulation of unsaleable cloth for a number of years; and this additional premium had been imposed to make good the loss thus suffered.

59. The Controller of Supplies in reply to a question stated that the cloth that was unsaleable at the end of S. 2008 was of the value of 4 lacs. It cannot be denied that it is a huge stock that is unsaleable. We asked the Controller Supplies to let us know who was responsible for indenting such cloth as was unsaleable. His reply was that they sent indents of the cloth required to the Supply Officer Bombay and that in drawing up the indent Co-operative Stores who are the distributing agents and also the dealers were consulted. He

further mentioned that some of the cloth purchased by the Supply Officer Bombay was not according to their indents but he could not say why it was so. He stated that probably the Textile Commissioner there in Bombay may have allotted such kind of cloth to the Supply Officer. From his statement it appears that the cloth which was not according to the indent was not more than one to $1\frac{1}{2}\%$. He stated that the cloth was not bad but its price was rather high and that was a reason why it was not saleable in the market. The Deputy Registrar Co-operative Societies on the other hand stated that the Co-operatives were not consulted before but were consulted for the first time in the month of Assuj, 2009. The Director General Rural Departments also stated that the Co-operatives were consulted for the first time in 2009 and never before. The situation is rather intriguing. It is not for us to apportion the blame for selection or indenting or purchase of such varieties of cloth as are not in demand and are unsaleable. Whether the responsibility lies on the Supply Officer Bombay or on the Controller of Supplies Kashmir or on the Co-operatives, it is not for us to decide but the fact remains that due to incompetency, or lack of care of some officers huge stocks of unsaleable cloth have accumulated and to make good this loss the burden has quietly been shifted to the consumer of other varieties of cloth, which to say the least is unfair and against the canons of justice and equity.

60. In the case of a private trader if a certain stock remains unsold he sells that stock on a reduced price and meets the loss out of the profits he gained from the sale of other stock. In this case the Government had huge profits from the sale of cloth and it was not justified in levying an extra 6% on the price to make up the loss of unsold cloth. The unsaleable cloth should have been auctioned publicly and the loss incurred should have been set off against the profits already accrued from the sale of cloth. The fact that additional 6% was levied on the price shows unmistakably that the consumers are entirely at the mercy of the officers of the Supplies Department who can vary the prices of the commodities whenever they like in order to made good the loss suffered. If the selection of cloth and its sale had been in the hands of the private trader it was not possible to have such state of affairs. It is, therefore, necessary that the levy of 6% temporary premium be abolished forthwith, if not done already.

61. Another suggestion that the Committee would like to make in this connection is that the system of making

purchases through the Supply Officer Bombay should be examined very closely. It was generally alleged that the cloth in Bombay sells at prices much less than the ex-mill prices and in the manner in which we make purchases through the Supply Officer we are paying the stamped ex-mill prices. The Committee would suggest that the purchase of 20% controlled cloth should be left in the hands of Cloth Syndicates whose concern it would be to see that they purchase at the prevailing prices in the market and not necessarily at the ex-mill prices. The Supply Officer should have nothing to do with it. The Committee would suggest decontrol of the remaining 80% of the coarse and medium cloth and all fine and superfine varieties in Kashmir subject only to a ceiling price.

SUGAR.

62. In the break-up of the price of sugar as given by the Director General, Food and Supplies, in his memorandum the ex-mill price of sugar is shown as Rs. 35/8/- per maund, the landed cost at Jammu Rs. 37/5/-, the landed cost at Srinagar Rs. 42/6/- and adding to it Rs. 5/2/- as permium, the issue price from supplies godown is Rs. 47/8/-. This is the wholesale price, and uniform retail price by the Co-operatives and Depot—holders in the city and Muffasils was Rs. 50 per maund or Re. 1/4/- per seer. The commission allowed on sale of sugar is Rs. 2/8/- per maund which includes transport from godowns at Srinagar and other incidental charges. It is interesting to note in this connection Re. 1/7/- was the retail sale price of sugar per seer in the city of Srinagar upto 1st Baisakh, 2009, and from that date onwards it was Re. 1/4/- per seer. Now under Government Orders the price of sugar has been reduced to Re. 1/-/6 per seer with effect from 1st Baisakh, 2010. The break-up of the reduction of Re. -/3/- per seer in the price of sugar from 1st Baisakh, 2009, as stated by the Controller of Supplies is Re. -/2/- on account of Flood Relief Fund and -/1/- out of Government premium. He has further stated that a further reduction of Re. -/3/6 per seer more with effect from 1st Baisakh, 2010, has been accommodated from the Government premium and dealer's commission. These facts will show that fixing of price has been practically at the discretion of the authorities of the Supplies Department. If a reduction of Re. -/3/6 per seer could be made from 1st Baisakh, 2010, why could it not be made from 1st Baisakh, 2009, when a reduction of Re. -/3/- had been made. A number of witnesses stated that the price of sugar at Delhi was between Re. -/10/- and Re.-/11/- per seer which would mean Rs. 25 to Rs. 27/8/- per maund.

63. The Committee may refer to one interesting fact which has come to its notice in the course of recording evidence of witnesses in Kashmir. The Ravenscroft Limited, a sugar-canning factory in Srinagar, had some difficulty in getting sufficient stocks of sugar. On its request the Industries Department intervened with the Supplies Department and obtained permission in favour of the Company for direct purchase and import of sugar from India on its own account. The factory after importing sugar on its own brought to the notice of the Industries Department that it had in making private purchase of sugar in India made a saving of Rs. 15 per maund. It has really been a startling revelation to know that a saving to the extent of Rs. 15 per maund was possible in the case of private purchase and import of sugar in Srinagar.

64. An expert witness who appeared before us stated that the maximum ex-mill price of sugar could not be more than Rs. 27/8/- and he accordingly attacked the very basis of ex-mill price as stated in the break-up of overhead charges given by the Director General, Food and Supplies. The Committee cannot doubt the correctness of the statement of this witness knowing that he had personal knowledge of the accounts etc. of a certain sugar mill in India which happens to be one of the mills from which we lift our sugar quota. It is not disputed that for arriving at the sale price of sugar—wholesale or retail—the ex-mill price as actually paid by the contractor was not verified by the Supplies Department on the basis of invoices. This method of fixing the sale price is apparently open to serious objection and needs investigation by the Government.

65. The Committee is, therefore, at a loss to understand as to how various officials of the Control Department while giving the break-up of figures arriving at the sale price of sugar have placed the ex-mill price as Rs. 35/8/-. The only inference one can draw is that either the ex-mill price is fixed by the Control Department without examining or checking the original invoices of the mills that have sold sugar to the contractor, or, as insinuated by an expert witness, an inflated ex-mill price has been shown in the invoices. Yet another possibility is that inferior quality of sugar to that contracted for is selected by the contractor from the mills at prices lower than the ex-mill price fixed with him by the Department. And perhaps this alternative explains the complaint of the consumer about the supply of inferior sugar to them.

66. As already stated above the Government has been charging a premium of Rs. 5/2/- per maund on sugar and in justification of this heavy permium the Director General in his memorandum has stated as follows :—

> " The difference between the landed cost and the issue price is received as Government premium which is set off against loss in the sale of salt."

This statement of his necessarily calls for an inquiry as to the loss suffered on the sale of salt and the profits made on the sale of sugar. The Committee feel constrained to remark that the above statement in the memorandum is not so much incorrect as it is misleading. The statement would lead a casual reader to think that there has been loss in the sale of salt from the very beginning and, therefore, as a measure to set off against that loss a higher rate of premium, namely Rs. 5/2/- had been charged on sugar. The facts are not as they are made to appear. The Director General was asked to let the Committee know the total amount of loss suffered on the sale of salt in Kashmir Province during the years 2006, 2007 and 2008. His reply is as follows: :—

> " During the years 2006 to 2008 no loss has been suffered on the sale of salt in Kashmir. With effect from 2009, however, uniform issue price of salt has been fixed for all places in the valley and as a result of this the Government is incurring a loss of Re. 1/2/- per maund."

The Controller of Supplies Kashmir who had been asked to furnish an account statement of the profits earned for the years 2005 to 2008 has sent a statement in regard to profits and loss of the essential commodities. In the letter forwarding the statement of profits and loss he has stated as follows :—

> " The figures are approved by the audit except for salt to end of 2007 and the proformas pertaining to all these commodities pertaining to 2008 are subjct to audit check. The salt is being imported for distribution by the Trade Agent Pathankot and Director General, Food and Supplies, Jammu, to whom we afford credit at Rs. 3 and Rs. 5/4/- per maund respectively. On these basis the enclosed proforma for salt have been prepared by this office."

It will be interesting to note that the Supplies Department of Kashmir has earned considerable profits from sale of salt during the years 2005 to 2008 as is evident from the proforma accounts for salt sent by it. The statement of gross profit

from sale of salt (subject to audit) is as follows: :—

		Rs.
For the year 2005	.. ..	4,38,822
For the year 2006	.. ..	5,15,365
For the year 2007	.. ..	5,02,831
For the year 2008	.. ..	3,16,027
Total	..	17,73,045

67. The above statement will show that the Kashmir Suppiies Department has made a gross profit of Rs. 17,73,045 on the sale of salt in Kashmir during the last four years and that, therefore, the ground alleged for imposing a high premium of Rs. 5/2/- per maund on sugar, namely to make good the loss suffered by sale of salt, is unfounded. During the last four years profits were regularly made from the sale of salt and yet a high rate of premium continued to be charged on the sale of sugar. This would show, beyond any manner of doubt, that issue price of sugar in Srinagar has been unnecessarily and unjustly inflated to the disadvantage of the consumer. The result of this action is clear. Whereas sugar sold in Jammu at Re. -/14/- a seer in retail it sold in Srinagar for Re. 1/4/- a seer during the corresponding period, *i.e.* at over 40% extra. The Committee need not discuss it further as it proposes entire decontrol of sugar and its free purchase from India and its free and unrestricted import, transport and sale in Kashmir Province.

68. It would perhaps be interesting to know the gross profits that have been earned from the sale of sugar in Kashmir Province for the years 2006 to 2008 and the figures are given below :—

		Rs.	a.	p.
Gross profits for the year 2006	..	5,57,743	12	6
Gross profits for the year 2007	..	7,63,125	13	0
Gross profits for the year 2008	..	8,60,634	1	9
Total	..	21,81,503	11	3

Salt.

69. Salt is the most essential commodity next only to food. It is this commodity which is consumed not only by every human being wherever residing and of whatever status but also by cattle. It is a matter of surprise that this commodity has been treated by the Supplies and Transport Departments at part with non-essential commodities like cement, iron and steel in matters of freight and other overhead charges. It does not appear to have ever struck these authorities to reduce the overhead charges on salt to the minimum possible so that this essential commodity might be available at as little a cost as possible.

70. The Committee should have expected that not only the Transport Department should have reduced the freight charges on a commodity like salt as done by other carriers in India, for example railways, but also that the Government on its own should have seen its way to either abolishing the customs duty on this commodity altogether or charging it only at a nominal rate in the interests of the public at large. Abolition of customs duty on salt altogether would have amounted to foregoing a revenue to the extent of five to six lacs of rupees annually.

71. In regard to purchase, import and sale of salt in Kashmir Province it is proposed that the same system as recommended for Jammu be adopted for Kashmir also with necessary safeguards as already mentioned.

Cement, Iron and Steel.

72. With regard to cement, iron and steel the system is the same as it is in Jammu and the Committee make the same suggestions for Kashmir as it has made for Jammu.

Kerosene Oil.

73. Kerosene oil was the only commodity which was decontrolled in the Kashmir Province and most of the witnesses in support of their suggestions for general decontrol deposed before the Committee that after kerosene oil was decontrolled it sold at much lower than the ceiling price and that it was available throughout the year without any difficulty. The effect of this decontrol was advantageous to the people and this was corroborated by the fact that the

Government never found it necessary to reimpose control on kerosene oil.

74. There are so many things which are not controlled and no complaint has been received in regard to scarcity in the supply of these commodities in winter months which would show that the absence of control does not always lead to inflation of prices provided of course the supply is plentiful.

75. Some of the witnesses who appeared before the Committee stated that the Supplies Department should not have made any profit but its mission should have been to render service to the people without incurring any loss or making any profit. According to facts and figures mentioned in paras 45 to 53 preceding it will appear that the Supplies Department has made huge profits, not to speak of incurring any loss. Even according to the figures given by the Supplies Department the following profits are shown to have been made in Kashmir Province for the years 2006 to 2008 on various commodities:—

		Rs.	a.	p.
Cloth	.. .. ..	25,36,434	0	0
Sugar	.. .. ..	21,81,503	11	3
Salt	.. .. ..	13,34,223	0	0
	Total ..	60,52,160	11	3

The premium received by the Jammu Supplies Department for the same period on sugar and cloth is as under :—

	Rs.	a.	p.
Sugar	4,85,107	8	3
Cloth	5,09,616	14	3
Total ..	9,94,724	6	6

This would show that whereas the Supplies Department earned a premium of Rs. 9,94,724/6/6 in Jammu Province it earned a profit of Rs. 60,52,160/11/3 in Kashmir Province for the corresponding period. These calculations would show that the above contentions of various witnesses are not unfounded.

Ladakh District.

76. The question of controls in Frontier District was put to the witnesses who appeared before the Committee in Ladakh. Witnesses from Kargil Tehsil were present there. Whereas the representatives of Kargil wanted entire decontrol and normal trade channels to function, those of Ladakh wanted the present system of control to continue. The choice of Kargil representatives was made perhaps because of :—

(*a*) their saving customs duty which is refundable to them on commodities which are imported direct from India ;

(*b*) Shorter distance as compared to Ladakh from the source ; and

(*c*) availability of these commodities on competitive and, therefore, much lower prices in India.

77. As regards Ladakh their main anxiety was that the present system of Government arranging adequate supplies of commodities, namely cloth and sugar for that Tehsil should continue to be the responsibility of the Government and they wanted that once they had adequate and assured supplies in Ladakh these may be distributed for free trade within the Tehsil itself after having fixed the ceiling rates. Apparently they are to gain by this because they are at present receiving a subsidy and they hope that this subsidy will continue. During the course of evidence it was made perfectly clear to them that whatever subsidy the Government was giving to them at present in essential commodities should not be taken by them as a permanent feature. If the Government decided upon the policy of decontrol they would not divert a portion of their profits at present earned by them by trading in essential commodities to Ladakh and call it a subsidy for Ladakh. In that event any subsidy that the Government may decide to grant shall have to be met from the general revenues. The Committee is sure that this matter will receive serious consideration of the Government and that an independent decision will be taken for controls in Ladakh taking in view the special conditions prevailing there. Controls in Ladakh apply mainly to cloth and sugar as fortunately to the Frontier District does not depend upon salt imports from India as they satisfy their requirements from the lake salt obtained from the border of Tibet.

Fuel Control.

78. Fuel consumed in the city of Srinagar is under partial control. Varieties which are extracted from the forests or are available from some other Government source are under control as they are sold at prices fixed by the Government and are rationed. Varieties obtained from private sources are not controlled either in price or in quantity. Partial supply on controlled rates is also made in Muffasils towns of Anantnag, Sopore and Baramulla. There being acute deficiency of fuel wood species, major portion of the supply is made by felling of timber trees of fir at considerable loss to the Government which is estimated to be four to five lakhs of rupees per annum. The Committee is told that if fuel is decontrolled absolutely not only the prices will shoot up but there will be scarcity of fuel to the deteriment of the consumer. In these circumstances the present system should continue.

Miscellaneous.

79. A complaint was made at Shopian by traders in fruit against the monopoly at present held by a Co-operative Society in Shopian for extraction and manufacture of fruit boxes that the price charged for the fruit boxes was high and the fruit boxes supplied were not of standard size and quality. On the other hand the representatives of the Co-operative Society claimed that the labour, *i.e.* the sawyers who were the members of this Society received much better wages than they would receive from any private individual contractor.

80. The Committee is not in favour of monopoly of any type and would, therefore, recommend to the Government that the supply of fruit boxes should also be left open to competition. Even in such an arrangement the interests of the labour, which seems to be the object in giving monopoly, can be safeguarded by making a condition precedent in tenders for sale of such contracts. It should be open to the Co-operative Societies as well to compete with other contractors.

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SUMMARY OF RECOMMENDATIONS.

Jammu Province.

1. Investigation into allegations made before the Committee regarding the purchase of cloth through the Supply Officer, Bombay.

2. Giving a free hand to the Cloth Syndicate, Jammu, if necessary moving the Textile Commissioner, Government of India, in the selection of the Mill and the varieties of cloth they would purchase.

3. Issue of licences to cloth dealers freely.

4. Restriction regarding the issue of licences for the sale of decontrolled cloth to be removed.

5. Renewal fee for licences issued for controlled cloth to be reduced from Rs. 5 to Rs. 2.

6. To encourage import of yarn directly from India.

7. Salt to be decontrolled entirely and only those restrictions as obtain in India to be placed.

8. If the Government of India do not relax the present restriction on inter-state movement of salt nominees for lifting the quota of salt to be appointed not only district-wise, but also Tehsil-wise.

9. There should be no restriction on import of sugar and every dealer should be allowed to import any quantity he may like.

10. The Government of India or the Cement Marketing Company to be approached for appointing more than one agent, particularly in Kashmir, who should confine their activities to imports only and should supply cement to retail dealers to be appointed by the Supplies Department both in the city and Muffasils for distribution of the same. This will apply to Iron and Steel also.

Kashmir Province.

11. The Government should accept and implement the policy of decontrol as in the case of Jammu Province with necessary safeguards by itself stocking salt and sugar for a period of four months of winter or getting adequate guarantee from the business class for maintaining stocks adequate for four months of winter.

12. As suggested in the case of Jammu, the cloth Syndicates in Kashmir to have a free hand in regard to purchase of 20% Coarse and medium controlled cloth and the Supply Officer to have nothing to do with it.

13. 80% coarse and medium cloth and all varieties of fine and superfine cloth to be decontrolled subject to ceiling prices.

14. Sugar should be entirely decontrolled and its purchase, import, transport and sale in Kashmir unrestricted.

15. The present system of control on fuel should continue.

16. The contract for supply of fruit boxes should be left to open competition, safeguarding the interests of labour.

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TRANSPORT CONTROL.

TRANSPORT CONTROL.

1. We now take up the question of Transport Control including petrol rationing. The Transport Controller has submitted a lengthy memorandum in regard to this question.

2. Question No. 10 of our questionnaire dealing with the transport control runs as under :—

> "What has been the effect of transport control including petrol rationing on private enterprise in regard to transport service and trade in general with consequent repercussions on the consumer ? "

The Transport Controller has stated in his memorandum as follows :—

> "The expression transport control in question 10 of the questionnaire in its relation to the operation of private transport service and of the trade in general is rather vague. There is no control on transport in the sense that the private entrepreneur is not subject to any determined restrictions or encumbrances. It is true, however, that in order to secure proper regulation of the transport service in the State a certain system for the registration of new vehicles, their distribution on various routes with a view to securing continuity in the flow of essential commodities and comfort for passenger traffic has been followed. This system was in existence before 1947 and continued in force with certain modifications to suit the requirements of the changed conditions. The system is actually regulated by the terms of the Motor Vehicles Act of 1998 and the statutory power is exercised by the Traffic Superintendent on his behalf as is the procedure in other States in India also."

The Transport Controller has given a detailed history of the circumstances which led the Government to having a Transport service of its own. He has referred to the various arrangements that were made by the Government after the raid of the State in October, 1947, to meet the situation created thereby in the transport service of the State. As stated by him the transport service in the State was completely paralysed due to raids and it was a difficult task to overcome its effects. After referring to a certain arrangement he has stated in the memorandum that :—

> "It was, however, obvious that this arrangement could at best be a mere stopgap one and could not be relied upon as substitute for a permanent system. Arrangement had to be made in order

to secure self sufficiency in the field of transport and to create an organization which could ensure a regular flow at reasonable charge of all essential commodities into the State. It was also necessary to safeguard against the very unhealthy possibility of exploiting, to the disadvantage of the consumer, the fact that the State had only one link with the outside world. In this connection it also has to be mentioned that the Government has been committed like other State Governments in India to nationalization of the transport industry in accordance with the all-India Policy. Inspite of this no steps have been taken to oust the private enterpreneur from the field of the transport making it clear to the transporter that the process of nationalization will be gradual and full cognizance of all the aspects of the problem will be taken before a final decision is given on the subject. Keeping the above factors in view the Government naturally decided to purchase a fleet of vehicles which no private transporter could do in the conditions of insecurity and run a dependable transport service for certain limited purposes and on a particular route leaving a wide field to the private sector. It was under these circumstances that the Government advanced a loan and undertook upon itself the movement of essential commodities between Pathankot and Srinagar which started working in June, 1948.

3. In order to properly appreciate the contents of the memorandum submitted by the Transport Controller it is necessary to refer to the law relating to the administration of Motor Vehicles in the State.

4. The first enactment on the subject called Motor Vehicles Regulation came into force in S. 1966. This Regulation was repealed by the Motor Vehicles Regulation No. 1 of 1975 which remained in force until repealed by the present Motor Vehicles Act No. XII of 1998. This Act did not come into force atonce but was to come into force on such date as the Government might by notification appoint in this behalf. Under Order No. 216-C of 1946 dated 23rd March, 1946, the Government was pleased to appoint 1st Baisakh, 2003, as the date on which the said Act except Part VIII was to come into force Part VIII was to come into force on 18th Har, 2003. Under the said Council Order rules under this Act called the Jammu and Kashmir Motor Vehicles Rules were also sanctioned. The Act which came into existence in 1998 was enforced on 1st Baisakh, 2003 and under the Adoptation of Laws Order, 2008, published in the Government Gazette dated 13th Katik, 2008, a few formal amendments were made in certain sections of the Motor Vehicles Act of 1998. The Act was further amended by Act No. XVI of 2008.

5. One important amendment was that the definition of road certificate as given in Section 2(34) was deleted and instead the word "permit" was defined under Section 2(25). It was further enacted that for the expression "road certificate" wherever occurring the word "permit" shall be substituted. It may be mentioned here that in spite of the fact that the expression "road certificate" has been replaced by the word "permit" the former expression continues to be used generally. The Act of 1998, it may be remarked is based on the Motor Vehicles Act of 1939 A. D. in force in India. Our Act is almost a verbatim copy of the Indian Act except for certain provisions which will be referred to at the proper place.

6. The second part of the Act deals with licensing of drivers of Motor Vehicles. The licence is to be issued by the Licensing Authority. The Licensing Authority is not named in the Act but this term is defined in Section 2(14) to mean an authority empowered to grant licences appointed by the Government.

7. Part III of the Act deals with Registration of Motor Vehicles, and it is provided that no person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the motor vehicle to be driven in any public place or in any other place for the purpose of carrying passengers or goods unless the vehicle is registered in accordance with this Part.

8. Part IV deals with control of transport vehicles. Under the Motor Vehicles Rules the Inspector General of Police was appointed as the Licensing Authority and also as the Registering Authority. This would show that the Motor Vehicles Act does not appoint any officer by virtue of his office as the Licensing and Registering Authority but authorises the Government to make rules for the appointment and functions of such authority and that the Government has in the rules made under the relevant provisions of the Act appointed the Inspector General of Police as Registering and Licensing Authority.

9. As a consequence of World War II and overall shortage of petrol imports in India issue of petrol was rationed in the State under the Motor Spirit Rationing Order of 1998 published in the Government Gazette of 29th March, 1942. The Inspector General of Police continued to function as Licensing and Registering Authority and also the State

Rationing Authority until Council Order No. 100 of 1948 dated 30th April, 1948, was passed by virtue of which the Transport Controller was invested with the powers of the Inspector General of Police under the Motor Vehicles Act and Motor Spirit Rationing Order. It would thus appear that from 30th April, 1948, the Transport Controller became the Registering and Licensing Authority under the Motor Vehicles Act and also the State Rationing Authority under the Motor Spirit Rationing Order.

10. In June, 1948, the Transport Department of the Government purchased its own fleet of vehicles by borrowing money from the Government and the administration of this Transport Department was vested in the Transport Controller. The Transport Controller therefore became :—

(1) The controlling head of the Government Transport Department ;

(2) The State Rationing Authority in respect of petrol ;

(3) The Registering and Licensing Authority ; and

(4) The head of the Traffic Control Department.

Part IV of the Act dealing with control of transport vehicles is important and relevant for purposes of our inquiry. Sub-section (1) of Section 42 provides that "no owner of a transport vehicle shall use or permit the use of the vehicle in any public place, save in accordance with the conditions of a permit granted by the Registering authority authorising the use of the vehicle in that place in the manner in which the vehicle is being used." Sub-section 3 of the same section exempts from the operation of the above provision any transport vehicle owned by or on behalf of the Military Department or the Government.

11. Section 43 gives power to the Registering Authority to control road transport and fix maximum or minimum fares or freights for stage carriages and public carriers to be applicable throughout the State or within any area or any route within the State.

12. Under Section 56 the Registering Authority may after consideration of the matters set forth in Section 55 limit

the number of transport vehicles to ply in any specified area or on any specified routes within the State.

13. The material provisions relating to the inquiry before us have been briefly mentioned. As already stated a motor vehicle is first to be registered and a certificate of registration obtained for it. The registration of motor vehicles under Section 22 cannot be refused by the Registering Authority except on conditions mentioned in Section 27, namely that the vehicle is mechanically defective. When a transport vehicle is registered under Section 22 it cannot thereby start plying in a public place. Before such a vehicle can be used or permitted to be used in a public place the owner thereof must obtain a permit, under Section 42. The Registering Authority has the power to limit the number of vehicles to ply on a particular route or routes or in any particular area. These powers mentioned in this Part though very wide and extensive cannot be used arbitrarily as the law lays down definite matters which have to be considered before a permit is granted or refused. The Registering Authority has also under Section 43 the power to control road transport and to fix maximum or minimum fares and freights for stage carriages and public carriers.

14. Our Act, as mentioned above, is based on the Indian Motor Vehicles Act of 1939 but there are certain differences between the provisions of our Act and the Indian Act in some important respects. So far as the licensing of drivers of motor vehicles and the registration of motor vehicles provided for in Part II and III are concerned, the provisions are alomst similar but when we come to Part IV dealing with control of transport vehicles we find important differences in our Act and the Indian Act. Under Section 42 of our Act it is the Registering Authority who is empowered to grant permits but it is not so in the Indian Act. Under the Indian Act the Provincial Transport Authority or Regional Transport Authority grants the permit. This would show that whereas the power of issuing permits in our Act is vested in the Registering Authority, in the Indian Act the permit can be granted or countersigned by a Regional or Provincial Transport Authority and both the Regional and Provincial Transport Authorities consist of such number of officials and non-officials as the Provincial Government may think fit to appoint. In other words in the Indian Act the power is to be exercised by a body of persons consisting of officials and non-officials appointed by

the Government and not by any single officer in his individual capacity.

15. The other difference between our Act and the Indian Act is that in our Act the Registering Authority can prohibit or restrict throughout the State or in any area or on any route within the State the conveying of long distance goods traffic by private or public carriers. He can likewise fix maximum or minimum fares or freights for stage carriages and public carriers throughout the State or within any specified area within the State. The powers detailed in Section 43 can be exercised by the Registering Authority after having regard to certain matters mentioned in that section, and after having heard the representatives of the interests affected. In the Indian Act the above power under Section 43 of controlling road transport and of fixing maximum or minimum fares and freights for public carriers is given neither to the Registering Authority nor to the Provincial Transport Authority or the Regional Transport Authority but to the Provincial Government alone. The Provincial Government has to exercise these powers, after consulting the Provincial and Regional Transport Authorities concerned. This would show that whereas the power of controlling road transport and fixing maximum or minimum fares and freights is given to the Provincial Government in the Indian Act this power is given to the Registering Authority in our Act. Section 44 of our Act provides for review of orders passed under Section 43 at such intervals of time as may be fixed by the Registering Authority at the instance of interests affected by such orders. It is not clear why the powers under this Chapter which in the Indian Act are exercised by the Provincial and Regional Transport Authority or the Provincial Government were conferred on the Registering Authority in our State. We are of the opinion that the provisions of the Indian Act on these two matters are salutary and are in the interests of the general public. We would, therefore, propose that the provisions of Part IV of our Act should be identical with those of Chapter IV of the Indian Act and that the power of issuing permits should not be with the Registering Authority but with the State Transport Authority consisting of officials and non-officials appointed by the Governmsnt. We are further of the opinion that the powers under Section 43 regarding the control of road transport and fixing of fares and freight should be exercised by the Government in the same manner as is provided for in the Indian Act.

16. Moreover as pointed out above the Transport Controller is firstly the Registering and Licensing Authority and secondly the head of the Traffic Control Department and thirdly the State Rationing Authority in respect of petrol and lastly he is the Administrator of the Government Transport Department which is a concern owning a large fleet of vehicles. The first question, therefore, that arises is whether the combination of such powers in one Officer is proper. In his statement the Transport Controller has tried to explain this position but he has not been able to give a satisfactory reply in regard to having all these functions vested in one person. It is against the laws of natural justice that an officer who administers a transport service on behalf of the Government run on commercial lines should also be invested with powers of administering the law relating to Motor Vehicles. Being the administrator of a transport service he is a party and therefore to invest him with the powers of administering the law in regard to motor vehicles is nothing short of making him a judge in his own case. The combination of these various powers in one person, in our opinion, is unhealthy, improper and deterimental to private transport service and the consumers in general. We are of the opinion that these functions centred as they are in one officer should be separated forthwith. The Transport Controller should have nothing to do with the administration of the Motor Vehicles Act. He must cease to be the Registering and Licensing Authority and the Head of the Traffic Control Department. He should be incharge of the Government Transport Department alone and should act as the Director General or General Manager of that department. Although the Transport Controller stated that he never discriminated against private transporters and that he had been just and fair to them yet as he himself is a party interested in transport business he should not have any power under the Act regulating the transport business.

17. In his memorandum the Transport Controller has stated that according to Motor Vehicles Act and the rules made thereunder it is essential to permit only those vehicles to ply on the State roads as are properly registered. He has further stated that an uncontrolled addition of vehicles of various sorts required for the needs of the community would only create conditions of chaos and confusion. According to him the maintenance of a wise ratio between the new vehicles which are registered, and the old vehicles thrown off the road was necessary in order to have a fleet of road-worthy

vehicles in adequate numbers available at all times. The tendency, therefore, as stated by him, of registering all kinds of vehicles which would be injurious to the interests of the country in the long run had to be curbed. Accordingly under the Motor Vehicles Act and the rules made thereunder the Licensing and the Registering Authority agreed to add additional vehicles to the existing strength only in replacement of old vehicles and a detailed order to this effect was issued by the Transport Controller in the Government Gazette dated 23rd March, 1950. This policy was executed in a manner so as not to cause dislocation or economic distress to the owners of old model vehicles. We have perused the relevant order, the preamble of which reads as follows :—

> "While reviewing the position of registration of vehicles during the current year I am impressed with the figures placed before me by the Traffic Superintendent. The figures also show that all sorts of vehicles, old and new models, have pushed their way into the State and have got themselves registered. This position was also discussed by me with the transporters at the time of the consolidation of all tronsport companies both in Jammu and in Srinagar into one unit and they were also of the opinion that adding further number of vehicles to the present fleets would not be economically sound for them. If the vehicles are allowed to be imported haphazardly at the current rate a time will come when we shall have to face a grave situation because of unemployed vehicles along with their drivers and cleaners. Apart from this consideration if no restriction is placed on the model of vehicles that should only be registered, we may on stock-taking find that our roads are full of such vehicles whose models we are contemplating to condemn and will again create a situation when old model vehicles are ordered to go off from roads."

The order further goes on to say that, "so far as Motor Vehicles Act and Rules are concerned. I agree that the registration of vehicles may not be stopped but I have to look to the economic and other aspects of the matter and, therefore, I do not consider it fair and advisable for transporters to import vehicles in large numbers for which I shall have subsequently neither enough petrol nor route permit to give. As I combine within me both powers of Registering and State Rationing Authority I cannot detach myself from looking at all the aspects of the problem which naturally clash with each other at a certain point."

18. The last sentence quoted from the above order is itself sufficient to show the harm which may result from the combination of powers notwithstanding the fact that an honest and well-intentioned officer may be exercising these powers. The Transport Controller has rightly conceded in the

above order that he could not make an order restricting the registration of new vehicles under the Motor Vehicles Act or the rules made thereunder and it is not therefore understandable how he has said in the memorandum that he had made an order under the Act. Last lines of the order explain why he passed that order, although under the Act he could not do so. He could not detach himself from looking at the problem from quite a different point of view.

19. A reference may be made to the operative portion of the above order to show how the private transporter has been discriminated against. Para 2 of the order lays down that no applications for registration of vehicles shall be entertained by the Traffic Superintendent which are received in his office after 30th Phagan, 2006, except in cases enumerated therein. Out of seven exceptions to the above order three only need be referred to here, which are as follows :—

(*a*) a corresponding vehicle with an existing Jammu and Kashmir number is condemned ;

(*b*) in cases which are covered by special permission of the Transport Controller ;

(*c*) in cases of registration of Government Transport vehicles.

It will be clear from the above that so far as a new private vehicle is concerned it will be registered only in replacement of an already registered and existing motor vehicle. The owner of newly purchased vehicle must surrender an existing old vehicle before he can get his vehicle registered and if he does not own any vehicle which he may surrender he shall have to pay money to some owner to agree to surrender his vehicle for condemnation. The Transport Controller has armed himself with absolute discretionery power by providing that this order would not apply in cases covered by special permission issued by him. Whereas the Transport Controller has prohibited the registration of new vehicles except in replacement of an existing vehicle which is to be surrendered or condemned so far as private transporter is concerned, no such restriction has been placed on the registration of Government transport vehicles, the result being that Government Transport Vehicles can be added and registered without any limit and restriction. This places

private transport service at a disadvantage when compared to Government transport service. Moreover the Government Transport Department can easily sell old vehicles to private transporters and a market for disposal of old vehicles is always available. It has been brought to our notice that the Government Transport Department has been selling its vehicles to private transporters after several years of use and in their case there was no difficulty of registration. If the Registering Authority were different from the Transport Controller the old vehicles of the Transport Depertment would have been on the same footing as the old vehicles of a private transpoter. It may be added here that the order restricting the registration of vehicles is not a legal order and has encroached upon the right of a private person to get a new vehicle registered.

PETROL RATIONING.

20. We now come to the question of petrol rationing. Petrol rationing was started in India during the Second World War and was introduced in the State as well. In India petrol rationing came to an end in the year 1950 but it is still continuing in the State. It is not disputed that the supply of petrol is in abundance and that is why it has been derationed in India The Transport Controller has stated in his memorandum that "with the steady improvement in the general situation the question of petrol rationing deserved to be reviewed now" but he has at the same time said that :—

> "in this connection the following facts have to be specially kept in view :—
>
> (i) Inspite of the completion of the construction of the Pathankot-Srinagar Road, the Province of Kashmir and some areas of Jammu Province cannot be fed during the months of winter. We have, therefere, to build up reserve stocks of petrol in order to feed the local needs with an assured regularity for winter months. The desirability of regulating the issue of petrol for this period of the year becomes obvious. Our difficulty in this behalf is further aggravated by the absence of secure and large storage facilities in these places
>
> (ii) The Motor Spirit Ratining Order also, in an indirect manner, clothes the Licensing Officers with statutory authority to ensure and regulate the plying of the required number of vehicles on different routes. As the Petrol Issuing Authority, he can ensure to tie down a fixed number of vehicles to each one of the routes in accordance with the needs of the areas in which these lie. In order to maintain the advantage of operating a route system effectively some alternative measures shall have to be devised with care so that the Licensing Authority is able to exercise necessary powers for the maintenance of this system after the termination of the Motor Spirit Rationing Order."

21. In his oral statement the Transport Controller has mentioned that he was against derationing petrol.

22. We have given our careful consideration to the grounds advanced in support of petrol rationing. The first ground relates to the difficulty in storing adequate quantity of petrol in Kashmir during winter months. This difficulty, in our opinion, is not insurmountable. When the stocks of petrol are so plentiful it is not difficult to build up adequate reserve stocks for winter months. We have before us the

instance of kerosene oil. When it was decontrolled the concern-
ed companies gave a guarantee to the State authorities to keep
available adequate supply of kerosene oil at all times and
they adhered to this guarantee. There has been no scarcity
of kerosene oil due to insufficiency of adequate stocks. It
should be easy to obtain a similar assurance from the petrol
companies that they will keep adequate stocks available during
winter months. We do not understand as to how mere rationing
of petrol has enabled the authorities to keep adequate supply
of petrol available in winter months in these areas Mere
rationing could not build the required reserve stocks, especially
when our State Government has no control over the source.
The import and movement of petrol is wholly in the hands of
the companies and the only control exercised is that petrol can
be sold only on coupons issued by various Rationing Authorities.
The availability of petrol during winter months depends on the
companies keeping adequate stocks available in Srinagar for
local use in winter.

23. The other reason given by the Transport Controller for
not derationing petrol is not at all convincing As Registering
Authority he had the powers given to him in express terms
under Sections 48, 51 and 56 of Motor Vehicles Act to restrict
the number of, and attach conditions to the plying of, different
kinds of vehicles in specified areas and on specified routes.
If he had resorted to these provisions it would not have been
necessary for him to utilise the Motor Spirit Rationing Order
for operating a route system in an indirect manner as conceded
by him.

24. It has been contended by the Transport Controller
that petrol is issued liberally to private vehicles and so rationing
of petrol does not adversely affect them. If petrol is issued
freely and there is no scarcity of petrol it is not clear why
emphasis is laid on its being rationed. All the witnesses who
appeared before us have stated that petrol should be deration-
ed immediately. It was derationed in India in 1950 and we
are of opinion that it should be derationed in the State forth-
with. We find no justification whatsoever for continuing
rationing. It definitely interferes with the free movement of
vehicles which is greatly deterimental to the trade.

25. It gives us great pleasure in placing on record our
appreciation of the valuable service rendered by Government
Transport Service at a time when chaos was prevailing in the
State. Not only we but in fact all the witnesses who deposed

before us have praised the services rendered by this concern all along. At a time when there was no transport, public or otherwise, available to the inhabitants of this country and all means of communication between the State and the outside world had been disrupted it was nothing short of a miracle that this department should have sprung up and grown to its present dimensions discharging its duties to the great satisfaction of all. It has actually rendered very efficient and valuable service not only during the emergency period but even during the present times when normalcy has been restored.

26. So far as the passenger traffiic is concerned it is gratifying to note, and we place it on record, that the Government Transport Department has managed it efficiently and at reasonably fair rates providing adequate amenities and facilities to the travelling public.

27. The only grouse that a consumer could have against the department now that normalcy has been restored is that the freight charges are fixed at high rates and are artificially maitained at that level by stopping open competition between private carriers *inter se* and between them on the one hand and the Government Transport Department on the other.

28. We have said while dealing with the control of essential commodities that freight plays an important part in the fixation of price level especially in the case of Kashmir Province. The present rate of freight was fixed by the Registering Authority under Section 43 of the Motor Vehicles Act. A perusal of the order under which the freight has been fixed shows that the requirements of the said section have not been fulfilled. The representatives of the interests affected do not appear to have been heard at the time of fixation of the freight which was necessary under the provisions of the Act. The Transport Controller stated that as he did not increase the freight he did not consider it necessary to consult the representatives of the interests affected. That is not a satisfactory explanation for non-compliance with the provisions of the statute. From evidence on record it appears that variation of freight have been made some times at very short and some times at very long intervals without hearing representative of the interests affected by these variations except on one occasion.

29. These variations of rates appear to have been made without complying with the express provisions of law

because the authority for fixing the freight is vested in a single individual. The power of fixing freight and fares is a power of great importance having far reaching consequences not only on trade, commerce and industry in general but on the whole class of consumers. This power is vested in the Indian Act in State Governments to be exercised by them after consultation with the State and Regional Transport Authorities and after hearing representatives of the interests affected. In the State this important power is vested in the Registering Authority and we have noticed with regret that the safeguards provided by law for exercise of this power have very often been ignored. After examining the orders fixing the freights it is clear that during the last five years only once (*vide* order dated 14th September, 1948) was the power of fixing of freights exercised in the interest of the consumer in quite a rational manner but unfortunately this order did not remain inforce for more than two weeks That order fixed the following freights :—

I

Salt and other controlled commodities.

(1) Pathankote-Jammu Road Re. 1 per maund instead of Re. 1/8/- as at present.

(2) Jammu-Srinagar Road Rs. 2/8/- per maund instead of Rs. 6 as at present.

II

Non-controlled commodities.

Jammu to Srinagar Rs. 7 per maund instead of Rs. 6 as at present.

It does not appear that any effort was made by the Transport Department to examine carefully the possibility of reducing freight especially from Jammu to Srinagar. Reduction in freight on salt would have greatly lightened the burden on the consumer as referred to earlier. As the freights were high the Transport Department has in less than five years paid back the whole Government loan with interest with which a fleet of 254 vehicles was purchased for the Department which has now risen to 410 and has built a further reserve out of the profits.

30. It will be interesting to record the figures showing the total capital invested and the profits made by the Department from the years 1949 to 1951 :—

	Rs.
Capital (taken on loan from the Government at 6 per cent. P. A.) ..	57,00,000
Profit for the period ending March, 1949.	3,59,000
Profit for the year ending March, 1950 ..	6,12,000
Profit for the year ending Chet 2007 ..	2,87,000
Reserve for 'Replacements' ..	8,00,000

31. It has been stated by witnesses connected with the tansport business and also by those not so connected that if there had been competition between private transport and Government Transport the freight from Pathankot to Jammu would have been less than Re. 1 per maund and from Jammu to Srinagar not more than Rs. 3 or Rs. 3/8/- per maund. It was even alleged that at times private transporters did charge Rs. 3 or Rs. 3/8/- between Jammu to Srinagar when maximum freight fixed was Rs. 6 per maund, but the Transport Department took steps indirectly to prevent them from charging that freight for fear of losing its own business. The witnesses quoted instances in support of their contention. The Transport Controller in his reply pointed out that he had fixed the ceiling rates of fares and freights and not the controlled rates and that the private transporters were at liberty to charge anything not exceding the maximum fixed. It was not proper to fix the ceiling rate of Rs. 6 if the rates had already gone down to Rs. 3 or Rs. 3/8/-. In view of this, freight rate on essential commodities has been definitcly high and therefore a consumer has had to pay more on these commodities.

32. It has been contended before us that the Government Transport Department succeeded in retaining the ceiling freight rate as the controlled and fixed rate by stifling competition and by the contrivance of helping the establishment of two unions among the private transporters, one at Jammu and the other at Srinagar, called the Transport Operators Union. It was alleged that it was indirectly at the instance of the authorities of the Transport Department that the owners of private transport companies

formed these unions and all the private transport owners pooled their vehicles together and agreed to run them according to their turns. In Jammu an organisation was set up and different routes were placed incharge of different managers with one General Manager for the whole. They are paid handsome salaries from the income of the Union. The income of the union comprises of two sources firstly they charge six pies per rupee of the freight charge and one anna per rupee of the fare charge from the owners of the vehicles. The second source is that if a businessman wants to have loading and unloading on his shop or godown outside the general stand he is charged Re. -/1/6 per maund. Out of this amount, 40 per cent is paid to the owners of the vehicles and 60 per cent is taken by the Union. In the memorandnm submitted by the Secretary Transport Operators Union Jammu it has been stated that Rs. 4,500 was the amount spent monthly by the Union on the pay of the establishment out of the 60 per cent taken by the Union. One witness deposed that this union is nothing but the creation of the Transport Department to serve as a prop for all the measures taken by it. When these vehicles run in turn each vehicle charges the ceiling freight from every trader with the result that the ceiling rate has become the normal rate and no one charges less than that. The combination of the transporters into this union has resulted in killing competition among private transporters *inter se* and between Government transport and private transport. The work of this union is regulated by the issue duty slips. The Secretary of the union issues the duty slip in favour of the vehicles whose turn it is to ply. On the basis of that duty slip the Petrol Rationing Authority issues petrol coupons in favour of the vehicles. In actual practice the union is the authority for keeping the turns for plying of all the vehicles and in consequence for the issue of petrol in their favour. The traders alleged that they would have flooded the market with commodities if artificial difficulties had not been raised in their way. The Government Transport vehicles have been carrying the controlled commodities from Pathankot to Jammu and from Jammu to Srinagar and on them the ceiling freight has invariably been charged. The private vehicles carry goods other than controlled goods in accordance with the turns prescribed by the method of working of the Union. Up to the end of 2008 all the controlled commodities were transported by the Government Transport vehicles but in the year 1952 the Government Transport obtained a contract for the transport of military goods with the result that they

engaged themselves in transport of military goods leaving a large bulk of controlled commodities to the private transporters. When the Transport Controller was questioned in regard to these unions he denied that his department had any hand in establishing them. He stated that it was the sole concern of the private owners and that he had no hand in the affair.

33. The words "the position was also discussed by me with the transporters at the time of the consolidation of all transport companies both in Jammu and Srinagar into one unit" used the order dated 23rd March, 1950, referred to above would show that the union was indirectly sponsored by the Transport Department and was not an entirely voluntary move of the private transporters. Moreover the issue of petrol conpons on the basis of duty slip issued by the Union further shows that the union came into existence at the instance of the Transport Department.

34. We have been told by witnesses that if the Government Transport is made to run in open competition with private transport vehicles the freight from Jammu to Srinagar, as already stated, would be in the neighbourhood of Rs. 3 to Rs. 3/8/- per maund. The Transport Controller stated that competition was already in existence but from the evidence which has come before us we are satisfied that there is no competition among the transporters including Government Transport at present. If there had been open competition the rate of freight would not have been uniform throughout the year. It would certainly change with the seasons according to the rule of supply and demand.

35. We are definitely of the opinion that the Government Transport Service is a very essential service and that this service should continue both for the passengers and trade goods. This concern rendered very valuable service at a very critical period of the history of our State and it can continue to render valuable service in future as well. The Department should function in the interest of the public and in competition with the private transport service as it will have a very healthy effect in keeping the rates at a reasonable level.

36. The question put to the Transport Controller in this connection and his reply thereto being of some interest is given below verbatim :—

"*Question* :—Do you envisage any break down of the Government Transport if

(*a*) free competition is brought into play and transport department made to function just like a private bus company ;

(*b*) petrol is derationed ; and

(*c*) powers of Registering and Licensing Authority and supervision, direction and control of traffic under Motor Vehicles Act transferred to some other officer than the Transport Controller.

Answer : "(*a*) I do not envisage any danger in the Government Transport Department. Firstly I claim that the Transport Department have never enjoyed any facilities or any privileges in its normal working and therefore there is nothing to be withdrawn in that behalf ; secondly the civil transport carried 80 per cent. of the total share of the transport trade (goods and passengers) while the Government Transport carried less than 20 per cent. Therefore it means the department is already facing competition in 80 per cent of the total business. So all things considered, treating the Government Transport like a bus company and bringing more competition into play will not affect the Government Transport immediately in future. As regards 20 per cent. which the Government Transport carries without competition it consists of salt and sugar and rice. I think the Government should continue to give my department the assistance to the extent of at least 20 per cent. of the total transport trade. Here I may mention that in other sister provinces special care has been taken by the Government to protect and safeguard the interests of their respective Government owned transport services. Even minimum rates have been fixed by some Governments only to avoid competition and here I can claim that except this 20 per cent. nothing more has been done to protect the Transport Therefore if this protection of 20 per cent. to the Government Transport is not afforded because the Government may decontrol salt, sugar and cloth. I think the Government Transport in the long run may be affected adversely and the consumer will

not get the countless amenities which the Government Transport extends and there is every danger of the country facing the situation which it faced in the year 1947.

(*b*) Nor will it envisage any danger if petrol is derationed.

(*c*) Regarding transfer of powers mentioned in Motor Vehicles Act there is not a single case in which any preference has been given by the authority in whom these powers have been vested in favour of the Government Transport and therefore this is not a factor which should at all count in case of the Government Transport Department is left to compete in the open market against the private transport companies."

36. At present we find that the vehicles of the Government Transport Department get some preferential treatment over private vehicles. This, in our opinion, should be avoided. The Transport Controller has challenged this allegation but a reference to a few instances would make it clear that the Government Transport vehicles enjoy special privileges in preference to private vehicles :

(1) The private vehicles have to pay registration fees whereas the Government Transport vehicles enjoy exemption from it. The exemption provided for in the rules for vehicles belonging to Government Departments was made at a time when there was no Government Transport Department. We are of the opinion that this exemption should apply only to vehicles belonging to Government Departments which do not run on commercial basis.

(2) The private vehicles have to obtain road certificates now called permits and pay fees therefor. The Government vehicles do not obtain permits and therefore do not pay any fees. The Government Transport vehicles which are run for commercial enterprise should not be exempt from the necessity of a permit. The advantages arising from exemption from permits are far reaching and some of them may be illustrated as under :—

(*a*) A permit is issued for a specificd route or routes and the right to ply the vehicle is limited to that particular route or routes. Because of exemption from obtaining permits, the Government vehicles are entitled to run on any route, long

short or branch routes, without any restriction. A business man who has to export a commodity from Baramulla to Pathankote has to engage a transport vehicle carrying his commodity up to Srinagar and then he has to engage another vehicle for transport of his commodity to Jammu. If he engages a Government Transport vehicle there would be no necessity for him to load and unload his goods at Srinagar for the purpose of sending them to Jammu. He would, therefore, prefer to have a Government Transport vehicle rather than a private one.

(*b*) The Government Transport vehicles do not pay Municipal taxes whereas a private vehicle has to pay those. The Transport Controller has stated that as the Government Transport vehicles do not use the Municipal Bus-stands, therefore, they were not liable to pay Municipal taxes but it is the use of the Municipal roads for which a vehicle has to pay Municipal taxes.

38. The above illustrations would show the advantages which the Government Transport vehicles have got over private vehicles and yet it is contended that there are no such advantages.

39. After consideration of the entire position in regard to transport in the State our recommendations are as follows :—

I. The Inspector General of Police should be the Registering and Licensing Authority and Controlling Head of the Traffic Department as it was previously.

II. (*i*) Suitable amendments should be made in the Motor Vehicles Act to give the power under Part IV of the Act to the State Transport Authority on the lines provided in the Indian Act. The constitutions and composition of that Authority should be similar to that of the Indian Act and consist of officials and non-officials.

(*ii*) The State Transport Authority will be a sort of quasi-judicial body empowered to entertain and dispose of applications for permits and discharge other functions in accordance with the provisions of the Motor Vehicles Act. This body should have a separate necessary staff of its own unconnected with the Government Transport Department to discharge the functions under the Motor Vehicles Act. For

all purposes it should be a permanent Government Department.

(*iii*) The official members composing the State Transport Authority should consist of the Director of Industries and Commerce, the Inspector General of Police, Transport Controller and the Chief Engineer Planning and the Minister Incharge as Chairman. Four non-official members should consist of the President of the Chamber of Commerce and three representatives of other general trading and transport agencies.

III. Section 43 of our Act should be brought into line with the provisions of Section 43 of the Indian Act.

IV. Petrol should be derationed. As permits are issued for specified routes the issuing of the duty slips becomes unnecessary.

V. (*i*) The Government Transport Department should run as a transport organization under the charge of an Officer to be designated as Transport Commissioner or Director General or General Manager Government Transport Service. The present designation of Transport Controller will be a misnomer in view of the duties proposed to be performed by him. This officer should have no jurisdiction over the private transport services.

(*ii*) The Government Transport vehicles must pay registration fee, permit fee and municipal taxes.

(*iii*) The Government Transport vehicles must necessarily obtain permits under Section 42 of the Motor Vehicles Act.

(*iv*) The Government Transport vehicles should have no preference in obtaining Government goods or private goods but must run in competition with private companies.

If, as a result of implementing the recommendations made above, the Government Transport Service at any stage finds itself in a position that it cannot hold its own ; considering that this service is essential to the life of the community, the Government should be prepared to subsidise the department to allow it to continue functioning. This is not only the unanimous view of disinterested witnesses who appeared

before the Committee, but the very considered opinion of the Committee.

40. We desire to make it clear that every citizen has a right to carry on any trade or business and anything which interferes with that right must be held to be bad. The drivers of transport vehicles including passenger buses have a right to ply their vehicles on public highways subject to the right of the State to lay down conditions for the better regulation of traffic etc. in the public interest. At the same time the State has a right to hold and manage its own property and carry on such trade or business as a citizen has the right to carry on so long as such activity does not encroach upon the rights of others or is not contrary to law. If in the interest of the general public and to provide them with transport amenities the State decides to run its transport service it would be only discharging a duty incidental to the ordinary functions of the Government and it is not necessary to have a specific Act before the State can do so, but it cannot be so in the case of nationalization. Nationalization of any industry is not possible without legislation as nationalization has in it two implications ; firstly that the State will carry on business and secondly that no one else will be allowed to carry it on. The second is an infringement of the rights of the citizens and therefore it must be by legislation. Until nationalization of all or any particular route is effected it is imperative that there should be equal treatment to the private as well as Government Transport Service even in the transitional period. We are definitely of the view that there should be free competition in the transport service which will be beneficial to the public at large and will ultimately result in the prosperity of the country. This should continue till such time that the Government decide finally on nationalization of transport for the whole State and actually implement it.

SUMMARY OF RECOMMENDATIONS.

I.—The provisions of Part IV of the State Motor Vehicles Act should be identical with those of Chapter IV of the Indian Act and the powers of issuing permits should not be with the Registering Authority but with the State Transport Authority consisting of officials and non-officials appointed by the Government.

II.—The State Transport Authority will be a quasi-judicial body with powers to dispose of applications for permits and to discharge the functions under the Motor Vehicles Act. This should be a permanent Government Department having a separate staff of its own and unconnected with the Government Transport Department.

III.—That the powers under Section 43 regarding the control of road transport and fixing of fares and freights should be exercised by the Government bringing this section of the State Act in line with the corresponding section of the Indian 'ct.

IV.—That the Transport Controller should have nothing to do with the administration of Motor Vehicles Act and that he must cease to be the Registering and Licensing Authority and the head of the Traffic Department. All these powers should be transferred to the Inspector General of Police.

V.—That petrol should be derationed *forthwith.*

VI.—That exemption from payment of Registration fee should be withdrawn from the vehicles of the Transport Department; these vehicles being liable to payment of Registration fees, Municipal taxes etc.

VII.—That exemption from obtaining road certificates or permits in favour of Government Transport Vehicles should be withdrawn from them.

VIII.—That the Transport Controller be designated as Transport Commissioner, Director General or General Manager. Government Transport service having *no* jurisdiction over private services.

FOOD CONTROL.

MOOD CONTROL

FOOD CONTROL.

1. The question of food control as it obtains in Jammu and Kashmir Provinces is discussed in this chapter.

Jammu Province.

2. The Director General, Food and Supplies, in his memorandum has stated that "Jammu Province was deficit in foodgrains even in the pre-control period and every year about ten thousand tons of wheat were imported through normal trade channels from the adjoining areas in the Punjab. With the imposition of food controls all over India in the year 1942-43 due to conditions created by World War II, Food Control was enforced in the State also and we joined the All-India Basic Plan, sponsored by the Government of India as a deficit State. From the years 1942 to 1947, ten to twelve thousand tons of foodgrains annually were imported by the Government under quota system, out of which about $\frac{1}{6}$th was sent to Kashmir Province and the balance was consumed in Jammu Province. With the conditions created by the Pakistani raids and internal disturbances in the State food situation became very critical, particularly in Jammu Province, and larger quantities of foodgrains had to be imported to meet the deficit. The figures of imports for the year 1948 to 1952 are given below :—

Year.	Total quantity imported.	Retained in Jammu Province.	Despatched to Kashmir Province.
	Tons.	Tons.	Tons.
1948	22,945	18,721	4,224
1949	56,286	29,506	26,780
1950	25,933	13,328	12,506
1951	11,875	6,875	5,000
1952	7,000	5,000	2,000

"In order to make the high priced imported foodgrains available to the consumers at a price within their purchasing capacity the Government gave a subsidy of Rs. 45,78,037/2/3 in Jammu Province alone."

'The imports have been decreased progressively due to improvement in internal food position and a deficit of about 6,000 tons remains to be covered. Until this deficit is made up by Rehabilitation and Grow More Food Drive launched by the Government and unless the Government of India decontrols food allowing free movement of foodgrains from one State to the other it is neither safe nor possible to decontrol the foodgrains altogether without jeopardising the interests of the consumers.

The system of control as prevailing in Jammu Province is that Jammu city is the only rationed area where wheat, wheat-atta and rice have been declared as rationed articles. Sale and purchase of these articles is prohibited except at authorised Government Depots. Import of these rationed articles in this area cannot take place without a permit of Director Food and Supplies. There is no restriction on movement of other foodgrains. Rationed foodgrains are issued to the consumers from the Government stocks at the rates fixed by the Government. The prices are fixed on no profit no loss basis. There are no restrictions on sale and purchase and movement of foodgrains in places outside the Jammu rationed area throughout Jammu Province, except Rajouri-Poonch district wherefrom export cannot take place without a permit from the Director General of Food and Supplies. To meet shortage of foodgrains in the lean months of the years the Government fair-shops are opened in the rural areas also wherefrom foodgrains on fixed rates are issued to the consumers. In the non-rationed area the dealers in foodgrains are required to obtain foodgrains licences for dealing in quantities more than five maunds. To meet the ration-ing and other commitments the Governmnet procures the foodgrains from the producers of surplus areas under a compulsory levy system through an appointed contractor. Maximum procurement scale is one-fourth of gross produce.

The Director General has observed that "the existing pattern of control in this Province is working satisfactorily to the benefit of the consumers. With the cordoning off of the rationed area there is free flow of foodgrains in the rural areas, where prices are being gradually stabilised and there is a downward tendency. The black-market in foodgrains has been largely eliminated."

3. There are restrictions on inter-district movement of foodgrains during procurement period only and not during

the rest of the year. The rate of the levy is according to the holding of a person. In case of wheat the procurement is very small and it is only got from Jammn and Kathua districts. The other districts are exempted from procurement of wheat. Maximum procurement of wheat is 20,000 maunds a year. No procurement of wheat is made from holdings up to 2 acres. Only holdings above two acres are charged one-fourth of gross produce. The Food Department has been obtaining wheat from the Punjab and PEPSU in place of foreign imported wheat which previously used to be supplied to the State by the Government of India and the landed cost of which was very high. The locally procured wheat was purchased at Rs. 10/8/- a maund.

4. The problem of food control is not a complicated one in Jammu Province. The quantity of imported grains is gradually decreasing and it is gratifying to note that the volume of imported grains for Jammu Province has come down from 18,721 tons, 29,506 tons and 13,328 tons of the years 1948, 1949 and 1950 respectively to 6,875 and 5,000 tons for the years 1951 and 1952 respectively.

5. It was contended by some of the witnesses that Government purchased local wheat at about Rs. 10/8/- a maund but sold it at a higher price of about Rs. 17 to Rs. 18 a maund. The Director General has stated in reply that the locally purchased wheat does not exceed 20,000 maunds a year whereas the requirements of the city are about 1,40,000 maunds and, therefore, the locally purchased wheat does not constitute a large portion of the wheat requirements for rationing the city of Jammu. According to him the locally procured wheat was sent to the far flung areas like Kishtwar and Poonch-Rajouri district in order that it may be available at a reasonable price after adding to it the transport and other necessary overhead charges. It was further stated that about 10,000 maunds from the locally procured wheat have been pooled into the imported wheat in order to give a partial relief to the consumers in the city by reduction in the price of wheat-atta, the price of wheat-atta charged at present being Rs. 17/3/- per maund. The break-up of the price, as given by the Director General, shows that the overhead charges on wheat are on the whole not very high.

6. The question that arises in connection with the system of food control in Jammu Province relates to the

demand made from some quarters for lifting the ban on the import of foodgrains and allowing their free sale in the rationed area of Jammu city.

7. Witnesses have appeared before the Committee and stated that wheat and rice both sold at cheaper prices outside the Jammu city and that Jammu city people imported foodgrains clandestinely from Tillo Talab and other suburbs where wheat as well as rice were sold at cheaper prices than prevailing in Jammu city. Their argument was that if the ban on import of foodgrains in the city of Jammu was lifted there would be a large quantity of foodgrains available in the city at a lower price and this will help the consumer to a large extent. The Director General stated that it would not be advisable to lift the ban because that would lead to the foodgrains being cornered and stocked by the foodgrain dealers without affording any relief to the consumer. He was of the opinion that free permission to import foodgrains into the city instead of leading to a fall in the price of wheat in the city would lead to a rise of price of the local wheat also without affording any relief to the consumer in the city.

8. The Committee has considered these points very carefully and are of the opinion that the Government should continue procurement and also distribution of foodgrains for the city of Jammu as it is doing at present excepting that procurement should be arranged through the Revenue agency like in Kashmir without any intervention of contractor as is the practice at present.

9. The Committee supports the policy of prohibiting the export of foodgrains outside the Province except under permits of the Director General of Food and Supplies. This is a healthy restriction and permits should be restricted and given for export in cases of personal consumption alone and not for purposes of trade. Ordinarily there should be no restriction on the movement of foodgrains within the Province and the Committee would, therefore, recommend the complete abolition of this restriction but if the Government feel that this removal of restriction, so far as import into the city of Jammu is concerned, will interfere with their procurement programme and they will not be able to procure as much as they want and at the rate as fixed they may restrict the import in Jammu city during the period of procurement but this should be done for as short a period as possible.

10. The scale of levy obtaining in Jammu Province is quite satisfactory as procurement is made only from surplus areas like Jammu and Kathua and again from holdings excéeding 2 acres.

Kashmir Province.

11. With regard to food control in Kashmir Province a memorandum has been received from the Ministry of Revenue wherein it has been stated:—

"Food problem in Kashmir particularly in the city of Srinagar is an old one and has since long been managed by the administration. The grain dealer of Kashmir believed in cornering all grain and selling it at exorbitantly high rates built up artificially.

"Food being thus a baffling problem the State has of old reserved to itself the right of recovering revenue in kind, though in actual practice it is being realised in cash. This recovery in kind is known as Mujawaza and the levy is enforced in proportion to the demand and with the collections thus made, Government granaries are fed to ration the population according to the need of the time.

"The first World War disturbed economy all over and its effect was felt in Kashmir some time about 1916-17. Prices in general rose and the foodgrains were no exception to this rise. Food Control Department was set up on or about 1921 in order to make grains available at cheaper rates. The organisation continued in full swing till a little before the Second World War, when due to slump it had to be practically wound up. Shortly after this Second World War broke out and was followed by inflation which necessitated the introduction of control over food in India in 1942-43. The State administration was, therefore, again compelled to continue the measure of control over foodgrains to maintain their equitable distribution and along with it to reinforce the food organisation.

"With the Pakistani raids in 1947, situation generally worsened and we could hardly expect to proceed on normal lines. Food control had to continue. Normalcy has returned since and the question of food policy has off and on been examined and relaxation wherever needed and possible allowed. But in view of the fact that the population generally and therefore in the valley and specially in the city have swelled and out of proportion without corresponding increase in the area under food crops, decontrol cannot be favoured.

"During the past few years since the raids on the State the Food Control Department has not only served the Srinagar city for which it was originally designed but has gradually extended its sphere of influence to urban and rural areas outside the city where in the lean months of the year there is usually shortage of

foodstuffs. It has also helped the operations of the various Government Departments by supplying foodstuffs for their labour in the far off places where otherwise the engagement of labour would be hard task due to food scarcity.

"The Mujawaza is levied, assessed and realized, under the terms and conditions laid down in statutory orders known as "Shali and Maize Control Orders." These orders are comprehensive and provide for assessment on a sliding scale on the holdings of all landholders and tenants on whose lands Shali and maize mature."

12. The memorandum of the Ministry of Revenue further adds that during the year 2009 up to 7th Phagan, 2009, realization of 7,61,898 *khirwars* of *shali* and 18,044 *khirwars* of Maize in grain and 11,895 *khirwars* of Maize in cobs have been made. The memorandum goes on to say:—

"As already indicated above, the collection figures have not been enough to cater to the needs of the whole province equitably. To meet the growing demand, foodgrains had to be imported from India and Jammu.

The distribution of the locally collected and imported grains comprises of (*a*) city rationing and (*b*) Merbehri and Muffasil rationing.

"The issues in the city are based on a statutory system of rationing at the scale of 4 *traks* of *shali* and 2 seers of *atta* per head per month. Besides the city population issues are made to visitors, hospitals, jails, institutions, hotels and restaurants.

"Rationing in Muffasils is made as a matter of relief and includes rationing in towns subrubs of the city, Merbehri, deficit areas, Frontier and Pahar *illaqas*."

"The Muffasil rationing is further being supplemented by stocks raised locally on voluntary procurement basis."

13. The Director Kashmir Valley Food Control Department has, in a communication addressed to the Secretary to Government, Ministry of Revenue, (endorsed to the office of the Committee) remarked that all the years in question, namely 2005 to 2008 have exhibited a loss as indicated below:—

		Rs.	a.	p.
2005	..	15,90,752	2	4½
2006	..	65,38,425	2	3
2007	..	13,91,263	15	4
2008	..	13,67,531	10	4½

The Director General, Food and Supplies, in one of his letters stated that the loss sustained on subsidy to Kashmir Province during the years 2006, 2007 and 2008 was Rs. 1,32,84,465. The Director Food Control was asked why and how the department was running on loss. He replied as under:—

"Recently he had worked out deficit of about 7 lacs loss for the year 2009 as shown in the Budget and this year it is estimated to be about 5 lakhs. Imported foodgrains have been subsidised. This year they are not going to subsidise any foodgrains. The Director further stated that establishment charges are met by the Food Control Department and not by the Government to which the Committee observed that these charges could not be met by General Revenues, as the Food Control Department should work like a commercial department. The Director gave the Committee to understand that they sell the *shali* at Rs. 10/8/- while actually it ought to have been sold at Rs. 11 and so As. -/8/- was a loss undergone by the Food Control Department as calculated roughly and if *shali* were sold at Rs. 11/4/- there would be no loss."

14. In connection with food control in Kashmir the first question that arises for consideration is whether there is any need, in the interest of the community, to run the Food Control Department as it is. This will depend on whether Kashmir Valley is sufficient in matters of food and whether continuance of food control is necessary.

15. It is only when supply is short of demand that the necessity for control arises. There will be no necessity of controlling food if the Province is self-sufficient in food. The food trouble in Kashmir Province rose in the year 1916-17 during the First World War as stated in the memorandum of the Ministry of Revenue. In 1921 the question of food control was taken up by the Government on a more or less permanent basis by establishing the Food Control Department. The Department functioned up to a little before the Second World War when it was almost wound up and heavy retrenchments were effected in the department. Again in the year 1942-43 during the Second World War due to the scarcity of food, the department was recognised and since then its strength has increased and now it is a well-manned and well-equipped departmeut. In the days preceding the Second World War when the department had almost reached the stage of collapse, Kashmir Valley used to export food to far off places like Kishtwar, Muzaffarabad, Gilgit, Ladakh, Poonch and even the Punjab. That would

presumably lead to the inference that the Valley had then surplus production of rice and we put this question to the Director of Food Control of Kashmir and the Deputy Commissioner Srinagar as to what had happened since then to make Kashmir Valley a deficit area in the matter of food. They both replied that Kashmir Valley was never self-sufficient, to say nothing of being surplus. They said that even in those days the zamindars generally fed themselves and their families mostly on fruit and vegetables and sold their foodgrains to earn money for meeting other necessities. Their view was that the valley was never self-sufficient in food.

16. This view of the above officials was supported by only one non-official witness. All other witnesses were of the opinion that Kashmir was then surplus in food and never deficit. Some of the retired revenue officers who appeared before us have deposed that Kashmir was self-sufficient in food if all foodgrains were taken into consideration.

17. In the absence of reliable data in regard to production of different kinds of foodgrains it cannot be said with certainty whether Kashmir is self-sufficient or not. There has been considerable increase in the population and there has not perhaps been corresponding increase in the area of land under cultivation. The Government has recently launched several irrigation projects and grow more food campaign and there is every hope that within a few years the Kashmir Province may not only be self-sufficient in the matter of food but may even be surplus. If Kashmir Valley is deficit in the matter of foodgrains rationing will be necessary and the Food Control Department will have to continue.

18. The entry of *shali* into the city of Srinagar is banned and its movement from one district to another in case it takes place through Srinagar city is also banned. The Department issues permits to Chakdars allowing them to import *shali* because they are not given ration tickets for purchase of *shali* from the Government depots. A number of questions arise in relation to the present system of food control.

19. The first question relates to the levy of Mujawaza surplus, *khush kharid* etc. On inquiry by the Committee the Revenue Department has supplied details of the changes made in the system of Mujawaza from time to time. It is

not necessary to refer to the system as it was before the year 2009. The system as introduced in S. 2009 as described by the Revenue Department is, as follows :—

"*Samvat* 2009 .—Instead of 1/4th of the gross produce according to Chakla rate concerned levied from 2006 in the case of proprietors holding 5 to 100 *kanals*, the scale was reduced to 1/5th and the levy imposed on holdings from 1 to 100 *kanals*.

"2. In Kandi circle instead of 1/5th of the gross produce levied on holdings from 5 to 24 *kanals* in Samvat 2006 the scale was reduced to 1/6th upto 50 *kanals*.

"Surplus recovery was made after making proper allowance for the Mujawaza due from the assessee and his legitimate requirements for one year. Instructions were issued in this behalf calling upon the assessing officer to calculate surplus after allowing 50 per cent of the balance left with the assessee.

"*N. B.*—Balance meant the grains left with the assessee after taking into consideration the Mujawaza and the legitimate requirements of the assessee.

"Mujawaza was levied at one *trak* of maize in cob per *kanal* in land on which maize was cultivated. Procurement price was the same as in 2008."

20. It may be added here that the rate of Mujawaza above 100 *kanals* was one-third (1/4th by the proprietor and 3/4th by the tenant) of rate Chakla in non-Kandi *illaqa*. In Kandi *illaqa* the rate of Mujawaza from 51 *kanals* to 100 *kanals* was one-fifth of the Chakla rate and above 100 *kanals* one-third.

21. This would show that from the year 2009 some changes have been made in the scale of Mujawaza. In Kandi circles no exemption of any holding was allowed and the scale was fixed at 1/6th of rate Chakla up to 50 *kanals*, and in non-Kandi area the scale was fixed at 1/5th of rate Chakla up to 100 *kanals*.

22. At almost every place we visited in Kashmir Province the main grievance of the people was against the Mujawaza. People were very bitter against the present system and the scale. Some of the complaints made in this connection are given below :—

(*a*) It was complained that persons who could not produce from their lands enough to eat even for three months of a year were subject to the levy of Mujawaza. No

consideration was given to leaving enough food for families according to their strength or the size of their holdings.

(*b*) To enable them to deliver the quantity of Mujawaza under the levy, peasants had to resort to black-market to purchase the quantity at exorbitant price which was two to three times that fixed by the Government.

(*c*) Over and above the fixed levy, grains had been procured either on the so-called *"Khush-Kharid"* or surplus basis through co-operatives. The general complaint was that procurement under these schemes had actually been made by unscruplous persons in collusion with the Revenue and the Co-operative agencies, and through coercion and unfair methods.

(*d*) That at the time of Delivery of Mujawaza a peasant had to deliver 17 *traks* per *khirwar* instead of 16 *traks* at the Ambar as otherwise the Ghat Munshi would refuse to take delivery.

(*e*) Standard weights and scale were not used at the Ambars and Ghats.

(*f*) Payment of advances for Mujawaza were not made direct to the peasants but through Lamberdars resulting not only in delay but in some cases none or short payment.

23. We deal with these complaints *ad seriatim*:—

(*i*) Regarding (*a*) & (*b*) we have been impressed in regard to the genuineness of these complaints and have seen some very hard cases during our tour in the Muffasils of Kashmir. In some cases a peasant who not having enough holdings and consequently not producing food for his bare minimum requirements, had to purchase foodgrains from the black-market in order to pay the Mujawaza. Previously small holdings were exempted from Mujawaza but from the year 2009 no such exemption has been allowed. No doubt the scale of Mujawaza has been reduced but it has not afforded any relief to the zamindars having small holdings. We have considered this question very carefully and we propose as follows :—

1. (*a*) Holdings up to at least to 8 *kanals* in Kandi and 4 *kanals* in non-Kandi areas should be completely exempted from the levy of Mujawaza.

(*b*) Exemption from Mujawaza of lands growing maize.

As regards proposal (*a*) above, some marginal adjustment will be necessary for holdings exceeding 8 *kanals* and 4 *kanals* in Kandi and non-Kandi area respectively. Logically speaking in case of such holdings also first 8 and 4 *kanals* respectively should have been exempted from Mujawaza but as we understand that the maximum number of holdings are in the neighbourhood of 10 to 15 *kanals* at an average, this may not be possible because full quota of Mujawaza may not be realized. The only other alternative that suggests itself in this context would be that of limiting the exemption up to a certain specific holding for purposes of marginal adjustment which is for the Government to decide.

It may be argued that by exempting persons holding only 8 and 4 *kanals* the Government may not be able to collect enough food for the rationed areas. For this the following suggestions may be considered :—

(1) Increase in the sliding scale at higher rungs, *e. g.* if Mujawaza is recovered at this time at 1/5th of the produce it should be raised to 1/4th beyond the exempted limit.

(2) Persons whose holdings exceed a certain limit—the limit being fixed reasonably after allowing for the family necessities of the individual concerned and taking into view his holding—should surrender the whole surplus as Mujawaza.

(3) Landlords and Chakdars living in rationed areas should surrender the whole of their produce subject to their getting ration tickets like other people in the rationed areas according to their family strength.

In this connection it shall have to be considered that the recovery of Mujawaza from the landlords will depend on their getting their share of produce from the tenants. If a landlord is unable to realise his share from the tenant the Government will have to take steps for realising his share for the purpose of Mujawaza.

(4) Reduction in the number of rationed areas and excluding some class of people from rations within a particular rationed area. For example, stopping the supply of foodgrains in the case of labour engaged by P. W. D. Irrigation and

Forest contractors, the Food Control Department confining its activity to the rationing of only the rationed areas and leaving the contractors themselves, who are paid adequate rates to cover all their expenses inclusive of labour, (because these contractors tender for Government works after taking into consideration the labour and the charges therefor) to their own resources to supply food to the labour engaged by them. This would not only reduce the quantity of food stuffs which the Government may have to collect under Mujawaza system but would also close the door on the unscrupulous methods that are employed by such agencies in disposing of the food so obtained in an unauthorised manner. This will also fit in with the recommndation made by the Committee regarding exemption of Mujawaza at para (*b*) above.

(*ii*) In regard to complaint made at (*c*) above, we have not been able to understand the necessity of authorising Co-operatives to recover *shali* from the zamindars with the assistance of the Revenue Department. The Co-operatives were authorised to avail of the statutory authority given to the Revenue Officers for making these recoveries of foodgrains from the zamindars. The Deputy Registrar, Co-operative Societies, Srinagar *could not conceal the fact that at times they used coercion in recovering* shali. To quote from his statement before the Committee :—

> "A person holding surplus grains was called upon to deliver it and since he did not want to part with it when the market price was much higher, there was an element of coercion in collection. The Co-operatives persuaded him and if the persuasion failed he was forced to do it. If one could satisfy that he had nothing to part with, we were morally bound to leave him. There was an order from the Deputy Commissioners permitting Assistant Registrars to make searches. The procedure was that the Co-operative workers, the National Conference people and other popular representatives joined together and appealed to the public that all surplus grain should be given to serve the poor and the needy. Some cases of misappropriation of *shali* were brought to my notice and action was taken against them. Some were referred to the police. Money was recovered in majority of cases."

These levies under different heads besides Mujawaza have burdened the zamindars very heavily and have driven them to the necessity of purchasing *shali* in the black-market. Some witnesses said that they purchased *shali* at more than Rs. 20 a *khirwar* in the black-market to deliver

it to the authorities and get in return Rs. 9 as the price per *khirwar*.

We strongly urge upon the Government that there should be no kind of levy except under the statutory Mujawaza system and through no other agency except that of the Revenue as done for purposes of Mujawaza.

(*iii*) In regard to complaints made at (*d*) and (*e*) it is proposed that the Food Control Department should provide proper weights and standard scales at all the Ambars (Stores) where *shali* is delivered by the zamindars as Mujawaza and that each and every consignment should be weighed. This item should be considered as one of the most important items of the supervisory staff of the Food Control Department and since delivery of Mujawaza is confined to a particular period in the year the Director of Food Control should mobilise the major portion of his staff and send them out to the Muffasils to supervise the delivery of Mujawaza at the Ambars. For this period both the Director and his Assistants should be in the field moving from Ambar to Ambar and subjecting the delivery to proper scrutiny and personal check. This will have a very wholesome effect on the Ghat Munshis at the Ambars. While taking deliveries they will be afraid of the inspecting staff coming to the Ambars at any moment.

The genuineness of the complaint at (*e*) has not been denied by the Director of Food Control when it was put to him as to why proper scales and proper weights were not provided for at each place of delivery in the Muffasils. His reply is reproduced below :—

> "1,500 to 2,000 *khirwars* of *shali* are received every day and every *khirwar* of which cannot be weighed by an ordinary scale. The Ghat Munshis weigh one or two bags out of the consignment of 30 and the Ghat Munshi believes the zamindar. Besides this there is difference of weights in a zamindari and a standard weight. This gives rise to some excess in collection centres. Sometimes zamindars are so clever that they keep two bags in one bag and thus hoodwink the Ghat Munshis."

The Committee would strongly recommend that steps should be taken to ensure that only 16 *traks* per *khirwar* are recovered in fact from the zamindar and nothing in excess should be taken from him. In the interest of the zamindar it is necessary that *shali* should be taken after

proper weighing and for that the department should provide standard weights and scales at collection centres.

(*iv*) Regarding the complaint made at (*f*) a few genuine cases actually came before the Committee and in one of the cases the local Tehsildar made enquiry on the spot after having verified that the zamindar had not received his payment at the time or even for some days after the amount had been made over to the Lamberdar. It is not, however, clear to the Committee as to why the individual accouts of the zamindars who come to sign the acquittance roll are not settled at that very moment. Whatever recoveries have to be made on account of land revenue or on account of excess advances paid in the past should be made on spot and only the net given to the zamindar actually at the time he signs the acquittance roll. This was put to the Director Food Control by the Committee when he was giving his evidence. He entirely agreed and said that the idea of making payment on spot was quite practicable. He was asked if he needed any orders, from higher authorities, in this matter to which his reply was in the negative We do hope that he has already issued necessary instructions in this behalf and in future payments will be made to the actual payees and on spot.

24. The other question which arises is whether the Octroi barriers against import of foodgrains into the the city should be allowed to stand or not. The Director Food Control was of the opinion that if these barriers were removed we would again have the Galladar (grain dealer) and that in consequence the price of foodgrains in rural areas was bound to rise. On this question the opinion of the witnesses was divided and different suggestions were made by them.

25. On the whole witnesses belonging to deficit areas wanted that there should be no restriction on the movement of foodgrains between city and the Muffasils while some witnesses belonging to areas where food is surplus within that area were in favour of retaining the Octroi barriers. Some witnesses stated that if restriction on imports into the city was removed that would stabilise the prices of foodgrains even in the Muffasils.

26. Another point to be considered in this connection is that the scale of four *traks* of *shali* and two seers of *atta* per head per month is not enough for an individual even in the city. Apparently a ration ticket holder in the city has to

supplement his ration to the extent that he needs for his family from the black-market in the city itself. Whatever may be the source of this black-market in the city, the fact remains that an individual ticket holder does get his supplementary food. Apparently so far as the city is concerned, ban or no ban on the import of foodgrains sufficient foodgrains are found in the city of Srinagar, though at high price. The supplementary food thus available in the city is a clear proof of the fact that the barriers do not serve the purpose for which they are meant.

27. It is to be considered in this connection whether restrictions on the import of foodgrains into the city serve any purpose so far as Muffasils are concerned. Considering the overwhelming evidence that has been produced before the Committee that foodgrains do sell in Muffasils at black-market rates one is driven to the conclusion that the barrier on the Octroi posts is not serving any useful purpose in the Muffasils either. May be, a grain dealer has changed his venue to the Muffasils also besides dealing in the city. It should be immaterial for the purpose of this examination whether the grain dealer belongs to the city or has stored grain in the Muffasils itself.

28. We have given the matter our very serious thought and would prehaps have hesitated to recommend that the ban on Octroi posts for import of foodgrains into the city of Srinagar should immediately be removed for the whole year round. We have, however, the advantage of having as our colleague among us the Revenue Commissioner who has had his life long experience of the Food Control Department, both from its organisational and administrative sides, and is now dealing with it as the head of the Revenue executive. He is definitely of the opinion that food problem in Kashmir Valley will not be solved unless these restrictions on imports into the city are entirely removed.

29. It was complained before the Committee at some places that the system of granting permits for export of potatoes and pulses helped neither the producer nor the consumer but only the middle-man. It was stated that at the time when the prices of these commodities are lowest due to there being a ban on exports, some influential persons after buying the commodities at cheap rates, obtained permits for export and earned large profits. We would, therefore, propose that there should be no restriction on

their inter-Provincial movement. If at a certain stage the Government feel that there is excess of these commodities within the State as a whole and that there is necessity of exporting them outside the State, at that stage the Government should consult proper business interests dealing with these commodities and may take action as advised by them in so far as exports outside the State only are concerned.

30. In the beginning we have mentioned on the basis of the statement made by the Director Food Control that the department was running at a loss as the *shali* was sold at Rs. 10/8/- a *khirwar* in the city whereas it should have been sold at Rs. 11/4/- per *khirwar*. We would recommend that steps should be taken to see that with the present sale price in Srinagar, namely Rs. 10/8/- per *khirwar* the department is able to run on no loss no gain basis. With the existing sale price and in order to achieve this end, the Government shall have to consider the reorganisation of the department and reduction of overhead charges in such a manner that no loss is suffered by the department.

31. We were rather surprised to learn from the Director Food Control that stocks are not checked on spot and what is done is that books are checked. Checking of books for ascertaining stocks available is of no use unless the stocks are checked simultaneously at proper intervals. We would suggest that yearly, if not six monthly, stock taking should be done and stocks checked on spot. This can be done at the time when the stocks in possession of the department are at their lowest.

Ladakh District.

32. There is a system of procurement in force in Ladakh which has been provided for at the time of the last settlement. Revenue of land is assessed in terms of money and it is not all recovered in money but only 2/3rd of it is recovered in cash and the remaining 1/3rd in kind. The quantity of produce to be taken in lieu of money varies and is fixed from time to time. At present for every rupee of land revenue nine seers of produce are recovered, three seers are credited to Re. 1 of revenue and the remaining six are paid for at three seers a rupee. In other words for rupee one of land revenue three seers of grains are recovered and along with it six seers of grains are recovered and paid for at three seers a rupee. It was represented before the Committee that there should be no partial recovery of land revenue in kind and that 1/3rd

of land revenue at present recovered in kind should also be recovered in cash. In the alternative it was pressed that partial recovery of land revenue in kind be made only to the extent of revenue. In other words their demand was that only three seers of grains should be recovered as against rupee one of revenue as long as the present commutation rate remained in force and that this rate should not in future be fixed arbitrarily but on the basis of prevailing market value. The additional six seers should not be recovered at all and if recovery is to be made it should be paid for at the prevailing market price.

33. The Committee considered this matter carefully and their proposals in this behalf are as follows :—

(1) If in the interest of food economy the recovery of land revenue partly in kind be necessary then the quantity of grain to be recovered should be fixed after every two years and it should be based on the market prices prevailing at the time.

(2) If additional recovery of foodgrains be considered necessary it should be paid for according to the prevailing market price and the payment made directly to the zamindar.

34. We are informed that irrigation projects for the area are under consideration of the Government in the Five-Year-Plan. We would strongly suggest that all irrigation possibilities in this district should be expedited.

GENERAL REMARKS.

35. We cannot help recording in this context that the miseries that the peasant has been put to because of arbitrary method of recovering Mujawaza, surplus and *khush-kharid* etc. through Co-operatives and other agencies and the excess that are alleged to have been committed by various agencies in Kashmir Province, have moved us to great pity. Our feelings after hearing the most unsophisticated peasantry, has been that whatever good the land reforms might have done to them has been undone to a great extent by the highhanded methods adopted by the various functionaries in this respect. The recovery of Mujawaza at the rate of Rs. 9 per *khirwar* while *shali* can be had from two to three times this price in the local market is a cause of great annoyance and resentment to the whole peasantry. Seeing how ticklish this question was certainly the authorities responsible for collecting the so-called surplus and *khush-kharid* should have been more considerate but on the other hand to our great regret they have taken recourse to undesirable and coercive methods in effecting recoveries.

36. The Government has given top priority to the problem of irrigation in its various schemes. The first problem, in our opinion, to be attended to is irrigation and agriculture and these two departments should be given top priority so that all available lands are brought under cultivation and further that maximum yield is obtained therefrom. New methods of cultivation have recently come into vogue and the Agricultural Department should experiment on them and introduce them wherever possible. We should aim not only at being self-sufficient in food but being able to produce much more than our requirements.

SUMMARY OF RECOMMENDATIONS

Jammu Province.

1. The system of procurement, distribution and rationing in Jammu should continue as at present except that procurement should be arranged through Revenue Agency without any intervention of a contractor as at present.

2. Export of foodgrains outside the Jammu Province not to be allowed except under permits of the Director General, Food and Supplies, and that also for personal consumption and not for purposes of trade.

3. Complete removal of restriction on the movement of foodgrains through the Province.

Kashmir Province.

4. Exemption of holdings up to at least 8 *kanals* in Kandi and 4 *kanals* in non-Kandi with marginal adjustment for bigger holdings, from Mujawaza.

5. Complete exemption from Mujawaza of land growing maize.

6. No procurement to be made through any agency except that of Revenue and no levy to be made except the statutory Mujawaza.

7. Providing of standard weights and scales at collection centres for weighment of Mujawaza delivery and constant inspection of Mujawaza delivery by the staff of the Food Control Department during the period of Mujawaza recovery.

8. Payment of advances to actual payees individually on spot and not though Lamberdars.

9. Entire removal of restrictions on import of foodgrains into the city and consequent free movement within the Province.

10. Free movement of potatoes and pulses within the State.

11. Re-organisation of the Food Control Department and the reduction of overhead charges in such a manner as to make it run on no profit and no loss basis.

12. Checking of stocks at regular intervals.

Ladakh District.

13. In the event of partial recovery of land revenue in kind as at present the quantity of grains to be recovered to be fixed after every two years and to be based on prevailing market price.

14. In the event of additional recovery of foodgrains, the same to be paid for according to the prevailing market price and payment to be made direct to the zamindar.

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HOUSE AND SHOP RENT CONTROL.

HOUSE AND SHOP RENT CONTROL.

1. Under Rule 65 of the Jammu and Kashmir Defence Rules the Government made an order called the House Rent Control Order, 2000, and another order called the Shop Rent Control Order, 2002. The House Rent Control Order came into force into the cities of Jammu and Srinagar from the 1st of Katik, 2000, and was applied to other urban areas from such dates as the Government by notification appointed in this behalf. The Shop Rent Control Order was to come into force atonce in the cities of Srinagar and Jammu and was to apply to other urban areas from such dates as the Government might fix in that behalf. In both the Orders urban area was defined to mean any area administered by a Municipal Committee, a Town Area Committee or a Notified Area Committee. Both these Orders were extended to several urban areas and were amended from time to time.

2. The main purpose of these Orders was to grant protection to tenants against ejectment from houses and shops and also from excessive rents agreed to be paid by them or claimed by the landlords. These Orders conferred powers upon the Controller to fix fair rent and several consequences relating to the protection of a tenant ensued from such fixation of fair rent. In fixing fair rent for a house the Controller was required to have due regard to the prevailing rates of rent for the same or similar accommodation in similar circumstances during the 12 months prior to 1st Baisakh, 1998. The fair rent in the case of a house which had been constructed after that date the Controller had to keep in view the general increase in the cost of sites and building construction.

3. The term "fair rent" was not defined in the House Rent Control Order. In the Shop Rent Control Order, 2002, the term "fair rent" was defined under Section 2(*b*). The definition given to it is as follows :—

> "Fair rent means rent not exceeding 75 per cent. rent prevailing for the same or similar accommodation in similar cirumstances during the 12 months prior to 1st Baisakh, 1998, and in the case of shop constructed after that date means rent similarly determined with regard to general increase in the cost of sites and building construction."

By a subsequent amendment under Council Order No. 342-C of 1948 dated 20th June, 1948, published in the Government Gazette dated 7th Sawan, 2005, the words "rent not

exceeding 75 per cent." in the definition of fair rent were omitted and the result of this amendment was that fair rent for both houses and shops was to be determined in one and the same manner. House and Shop Rent Control Orders remained in force up to 15th Phagan, 2009, the date on which the Houses and Shops Rent Control Act No. XIV of 2009 published in the Government Gazette dated 24th Maghar, 2009, came into force. We are therefore, now concerned with the above Act.

4. On behalf of the Government it has been stated in the memorandum that "acute scarcity of building material as an after math of last War brought complete stoppage of new construc- tions. The balance between supply and demand in respect of building accommodation having been seriously disturbed the owners egged on by their selfish interests utilized the opportunity to demand exorbitant rents. To check this unhealthy tendency that fast developed in the owners to rack rent the tenant the Rent Control Orders were issued under the Defence Rules." It is fur- ther stated that "the conditions which prompted rent control measures were the shortage of accommodation etc. continued and the influx of refugees into the cities and town aggravated the situation all the more. Rent Controls have been an important fea- ture of control measures undertaken by other States of India and our State has in the similar circumstances adopted the same course. Now in place of Control Orders as previously enforced Houses and Shops Rent Control Act has been adopted." It may be added here that the present Act is a comprehensive one and covers all matters relating to rents of houses and shops. This Act extends to the Muni- cipalities of Jammu and Srinagar and to such other urban areas to which the House Rent Control Order, 2000, and Shop Rent Con- trol Order, 2002, were extended from time to time. Section 4 of the Act provides that it shall remain in force upto the last day of Chet. 2010, provided that the Government may by notification extend the operation of the Act for another year after the last date of Chet, 2010.

5. We have recorded the statements of a number of persons in Jammu and Srinagar on the point whether or not rent control on shops and houses should continue. Both in Jammu and Srinagar conflicting opinions have been given by the witnesses in regard to this subject. On one side the rent payers, namely the tenants put forth their case for retaining control on the rents of houses and shops and on the other hand the property owners put forth the de- mand for the entire removal of controls. Printed posters putting forth their respective points of view were filed before us in Srinagar.

6. The Aukaf Committee in Kashmir also submitted a memorandum objecting to the control of rents on Aukaf property. We have very carefully considered the contentions of both sides. We are of the opinion that the conditions which were responsible for the enforcement of control over rents of shops and houses some years ago continue to this day and that, therefore, in the interest of tenants it is desirable that control over houses and shops rents should continue for the present. The present Act is not a measure of permanent nature but will remain in force up to the last day of Chet, 2010. The Act gives power to the Government to extend its life for another year after the last day of Chet, 2010.

7. On the basis of the evidence produced before us, we are of opinion that some modifications in the provisions of the Act are called for which are mentioned as under :—

(1) Chapter III of the Act deals with suits and proceedings for eviction and sub-section (1) of Section 11 provides that no order or decree for the recovery of possession of any house and shop shall be made by any Court in favour of the landlord against a tenant. This sub-section has several exceptions, one of them being that it shall not apply to any suit for decree for recovery of possession "against a tenant who has sublet the whole or a major portion of the house or shop for more than seven consecutive months."

The above clause would show that when a tenant sublets the whole or a major portion of the house or shop for more than seven consecutive months he will be liable to eviction in a suit by the landlord. We think that this clause goes too far to favour a tenant against a landlord. In our opinion protection granted to a tenant should be available to him only so long as he continues to be a tenant in the real sense. The moment the tenant sublets the house or the shop he ceases to be a tenant and consequently should cease to have the protection and advantage granted to him under this Act. We are, therefore, of the view that clause (*c*) should read as "against a tenant who has sublet the whole or any portion of the house or shop." We propose that it should be provided in express terms that subletting of a house or a shop or any portion thereof without obtaining previous permission in writing of the landlord for any length of time, however short, shall automatically operate as a termination of tenancy disentitling the tenant to any benefits under this Act.

(2) Section 23-A is an important section. It provides that all premises the construction of which is completed after the commencement of this Act but before the expiry of three years from such commencement shall be exempt from the operation of all the provisions of this Act. This provision was absent in the previous control orders and this was one of the reasons why new houses were not constructed. There was, therefore, no incentive for investing money on the construction of new houses. Witnesses have come forward to say that people did not construct new houses as they were afraid that the house and shop rent control orders would be applicable to these houses as well. Section 23-A has remedied the defect but we are of the opinion that the condition that the construction of house or shop should be completed before the expiry of three years from the commencement of the Act is not a reasonable one. We would propose that the words "but before the expiry of three years from such commencement" should be omitted in Section 23-A so that every house or shop whose construction was completed after the commencement of the Act is exempted from the operation of the Act.

(3) It has come in evidence that the Rent Control Act is more favourable to the tenants and it does not afford equal protection to the landlords. There appears to be some force in this contention. There are measures provided in the Act for the protection to the tenant and not for equal protection to the landlord. Whereas a tenant can obtain relief by a summary application before the Controller the landlord cannot obtain any such relief. A landlord who claims eviction of a tenant or arrears of rent has to proceed by a regular suit in a civil court. We would suggest that in cases governed by the Rent Control Act a landlord should be able to obtain relief by way of the eviction of the tenant and also for arrears of rent by a summary petition before the Controller and that provisions to that effect should be made in the Act.

It was contended before us by certain witnesses that Aukaf property should be exempt from the operation of this Act. We do not think it expedient to exempt such property or any other property from the operation of this Act.

(4) On behalf of the landlords it was contended that the manner in which the fair rent is to be determined according to Schedule A of the Act was unfair to them. So far as houses are concerned the provisions of Schedule A for determination of fair rent appears to be reasonable but not so the provisions relating to shops. Shops are taken on rent for commercial purposes. It is, therefore, only fair that such premises as are utilized for income by the tenant should be liable to pay an adequate rate of rent. As already ob

served when the Shop Rent Control Order came into force the term "fair rent" was defined to mean rent "not exceeding 75%" rent prevailing during the period of 12 months prior to 1st Baisakh, 1998, and this definition was deleted on 7th Sawan, 2005. In other words fair rent was rent prevailing during the basic period increased by maximum of 75 per cent. thereof. This rate namely increase of 75 per cent over the rent during the basic period was deleted with effect from 7th Sawan, 2005. The above increased rate remained in force for over two years. We think that the percentage of increase in the rent of shops should be higher than that fixed at present. We would propose that in Schedule A in clause 1(*b*) for 10 per cent. it should be 20 per cent. in the case of shops. We would also propose that in clause 3(*b*) for 10 per cent. and 15 per cent, 15 per cent and 20 per cent should be substituted respectively.

8. This Act does not exempt any building from its operation. It applied to Government buildings and those belonging to a local authority. In the House Rent and Shop Rent Control Orders it was provided that they shall not apply to Government buildings. We were told by witnesses belonging to the class of landlords that the Municipality had auctioned the lease of its shops at much higher amounts than charged previously. The President Municipality admitted that the Municipality had auctioned the lease of its shops and that higher amounts of rent were received. As no exemption has been made in the cases of Houses and Shops owned by the Municipality rents of shops could not be increased in the manner they have done.

9. In Jammu owners of property appeared before us and they protested that their houses were requisitioned by the District Magistrate for use of Government officers moving down to Jammu during winter which put them to great inconvenience, as they had to share their houses with persons whom they did not know and they did not like to let out their property but they were made to do so under compulsion. This appears to be a genuine grievance of the people who are made to part with their property under compulsion. The sooner this grievance is redressed the better.

10. The requisition is made under Defence Rules. The Defence Rules should be taken recourse to only in emergent cases and a citizen should in no case be put to inconvenience merely because the house is required for accommodating a Government employee. In very rare cases a citizen may be required to part with his property under his use for accommodating a Government employee. We would propose that requisitioning of the houses should be avoided as far as possible.

PROGRESS OF REHABILITATION OF DISPLACED PERSONS IN THE JAMMU AND KASHMIR STATE.

PROGRESS OF REHABILITATION OF DISPLACED PERSONS IN THE JAMMU AND KASHMIR STATE.

Jammu Province.

1. We now take up the question of the progress made in the rehabilitation of displaced persons in the State. This problem so far as Jammu Province is concerned, is more complicated and it will be dealt with first.

2. In the memorandum submitted by the Provincial Rehabilitation Officer it is stated as follows :—

> " The partition of India in August, 1947, resulted in an unprecedented exodus of refugees—Muslims and Non-Muslims - from the East and West Punjabs and their mass movement through the territories of the Jammu and Kashmir State. The refugees started pouring into the State from Kohalla to Bhadarwah all along the border.
>
> " Incursions from Pakistan started all along the border in October, 1947, which resulted in the displacement of the inhabitants of the State in large numbers, completely shattering normal life in these areas. This tragic state of affairs brought in its train the commotion, which ultimately developed into internal communal disturbances almost all over the Province of Jammu. Half starved people bereft of their wordly belongings started running for their lives from affected areas towards the cities of Jammu and other urban towns. At this critical juncture a Central Refugee Committee was formed under Council Order No. JE/13/47, dated 19th November, 1947. Appeals from Sheikh Sahib and other leaders of the National Conference brought, in a very short time, substantial donations to the tune of Rs. 3 lacs. About 80 thousand persons reached the city of Jammu which thus became a big refugee camp. Proper relief organisations were set up. Free food, rations, clothes, blankets, milk and soap were distributed among the refugees whose number went on soaring day by day. Refugee Relief Camps were also opened at Pullanwala, Jeorian, where relief was provided to the unfortunate victims of raids and riots. Refugees were housed in all types of Government and private buildings. Even residential houses were shared by the citizens with the refugees. Langers were organised where cooked food was supplied to thousands of uprooted people every day. The entire transport was commandeered and harnessed with the task of the evacuation of refugees from the disturbed areas to secure places. The work of the Central Refugee Committee was commendable.
>
> " The drain on the funds of the Central Refugee Committee being heavy.....the task of feeding the refugees was assigned by the

Government to Dharmarth Department on the 1st of January, 1948. This Department opened five Langers in the city of Jammu and provided cooked food to the refugees from the 1st of January to 13th May, 1948. Dry rations were also supplied by this department to refugees in Muffasil camps during this period. The Department incurred 15 lacs on this account from its own funds.

"The Relief and Rehabilitation Department was started in Baisakh 2005, under the Ministry of Health and Rehabilitation. This department took charge of the Refugee Camps in the Jammu Province on the first of Jeth, 2005. Relief Camps were immediately reorganised into 10 big units which were kept under the charge of ten paid Camp Officers with a number of sub-camps under the charge of Assistant Camp Officers. Dry rations were issued free to the displaced persons. Cloth, blankets, utensils were also issued to the deserving. Rations were also supplied to the refugees in Muffasil Camps. A large number of non-Muslim refugees from the Tehsils of Haveli, Mendhar, Bagh and Sudhnuti had collected in Poonch town which was completely cut off from the rest of the State even by Air in the last week of December, 1947. The population of the town at that time was 36,700 souls. Reports regarding shortage of food in this town were also received when food and rations valuing Rs. 3,18,741 was arranged to be dropped from Air at Poonch through Army Dakotas for free distribution amongst the displaced persons.

"The Government of India set their Relief Organisation in Jammu on the 1st of June, 1948. This organisation took over charge of the Refugee Camps in Jammu city on 29th of June, 1948. It established Refugee Relief Camps at Nagrota, Chatha and Company Bagh in addition to a Home for the unattached women and children at Frashkhana in Jammu city. The refugees who had for a number of months been living in the city of Jammu resisted joining these camps on one plea or the other. As a result of the continued persuasive efforts of the staff the number of displaced persons in camps ultimately rose to 32,000. Free rations, clothing and bedding were supplied to these refugees in addition to the tentage accommodation. Separate hospitals were opened to look after their health. A number of schools were established in Camps for the education of the children. This organisation worked at Jammu till 1951 when the camp was completely wound up after despatching for rehabilitation the last batch of the displaced persons. The cost on the maintenance of these camps is reported to be Rs. 260 lacs.

" Most of the displaced persons of our State moved to India, after their short stay at Jammu. They were admitted into Refugee Camps in India. Later about 3,000 dispalced persons originally admitted in Jullunder Camp were transferred to Hoshiarpur Relief Camp and then to Nagrota Camp in June, 1950. The relief camps in India were closed for displaced persons from India, some time in 1951, when the Refugee Relief Camp for Kashmir displaced persons was opened at Yole. The number of displaced persons in this Camp was 15,600. About 9,600 persons of this

Camp have also been rehabilitated. Out of these 4,047 persons have recently been rehabilitated in the State through the Joint Rehabilitation Board. 6,000 displaced persons are still in this camp awaiting rehabilitation. The expenditure incurred by the Government of India on the maintenance of relief camps at Yole ending 1952-53 is reported to be Rs. 98,35,000.

"The non-Muslim refugees joined the Relief Camps organised by the Government of India whereas Muslim refugees living in the Camps at Talab Khatikan and Mohalla Ustad could not be persuaded to join these camps. The number of persons in this Camp was 14,000. These camps, therefore, continued to function under the care of the State Rehabilitation Department. 13,527 persons out of these were rehabilitated in their homes and 473 infirm and invalids etc. still remain in Jammu city. Cash relief is still being granted to them through the Aukaf Committee. Cash relief amounting to Rs. 15,000 was distributed among Muslim destitutes in Samvat 2008.

"As the problem of rehabilitation mainly entailed the settlement of displaced persons on land the department of rehabilitation was transferred to the Ministry of Revenue in Bhadon, 2005. The department was immediately reorganised and put in charge of the Revenue Agency whereby the duties of the Provincial Rehabilitation Officer in Jammu were assigned to the Governor of Jammu and those of the District Rehabilitation Officer, Tehsil Rehabilitation Officers to Wazirs Wazarat and Tehsildars in their respective juridictions. On the abolition of the post of Governor the work of the Governor went to the Director General, Food & Supplies, Jammu, who was designated as Provincial Rehabilitation Officer. The work of Wazirs Wazarat similarly went to the Deputy Commissioners.

"The turmoil of 1947 enumerated in the preceding paragraph resulted in the displacement of approximately 6,53,300 persons from the Province as per details given below :—

S. No.	Name of district.	Muslims.	Non-Muslims.	Total.
1	Jammu	36,000	1,58,000	1,94,000
2	Kathua	12,000	71,000	83,500
3	Udhampur	38,000	33,000	71,000
4	Doda	23,000	25,000	48,000
5	Poonch-Rajouri	1,42,000	51,300	1,93,800
6	Mirpur	...	63,000	63,000
	Total ...	2,51,500	4,01,800	6,53,300

These figures are only approximate.....and do not include the number of persons who migrated to Pakistan, or are living in the enemy held territory or became missing.

" The number of non-Muslim refugees from areas within the enemy held territory, known as displaced persons from non-liberated area of the State is estimated at 91,000 persons. Most of the Muslim displaced persons migrated to Pakistan whereas some persons from Tehsil Ramban and Niabat Gulab Garh temporarily migrated to Tehsil Kulgam in Kashmir Province. Only 14,000 as already enumerated above joined the Relief Camp, Jammu."

3. Having studied the memorandum submitted by the Provincial Rehabilitation Officer, Jammu, and other evidence produced before the Committee, the displaced persons can be placed into the following three categories :—

(1) Persons who due to internal disturbances were displaced from their original villages and who in consequence migrated to other safe areas.

(2) Persons who were displaced from their original homes because of enemy action which areas were later on recaptured by the State. This area is called the "liberated area" and the displaced persons from this area are known as "displaced persons from the liberated area."

(3) Displaced persons from the areas which even now are under the enemy occupation and which areas have not so far been liberated. The refugees from this area are known as "displaced persons from the non-liberated area."

4. The displaced persons belonging to the first category are numerous and the action taken by the Government for their rehabilitation has borne fruitful results. On the return of normal conditions and as a result of the efforts of various good-will missions majority of these displaced persons returned to their homes. A very large number of displaced persons from Niabat Gool, Tehsil Reasi, migrated to the Tehsils of Kulgam and Anantnag. The residents of these Tehsils housed and fed these displaced persons and an amount of Rs. 40,000 was spent from the Government exchequer on them. By the end of year 2006, a bulk of these Gool displaced persons returned to their own villages. It appears that rehabilitation of this category of displaced persons was effected and expedited by the authorities with the co-operation of the local people.

5. An Ordinance was promulgated in the month of Chet, 2004,

for restoration of the property of the displaced persons. This helped considerably the rehabilitation of this category of displaced persons. They were also given timber for construction of houses. Some of these displaced persons have not gone to the borders due to the fear of raids from Pakistan. Efforts have been made to rehabilitate them in safer areas.

6. The next category of displaced persons mostly belonged to the border areas of the State. These people migrated to other parts of the State when their area was captured by the enemy and after the liberation of those areas from the hands of the enemy the Government persuaded the displaced persons to return to their original homes. Most of them have gone back to their original homes and resettled there. Some of these persons who had joined the camps were settled on their lands in their own villages under the plan of the Joint Rehabilitation Board. Out of this category, however, there is a number of people who belong to the insecure zones of the liberated areas and these people have not returned to their homes as yet. They have got lands in the interior where they felt safer and secure.

7. The problem of the displaced persons whose area, though liberated, is lying on the border has to a large extent been settled. There are certain matters relating to the allotment of lands which call for consideration. This will be discussed later. Some of the people of this category had joined the camps but most of them remained outside the camps.

8. The last category of displaced persons came from the non-liberated areas. Approximately 50,600 persons were admitted to several relief camps in India and in Jammu under the Government of India. Quite a large number of displaced persons belonging to this category, however, did not join any camps. This naturally resulted in two sets of displaced persons ; one who will be referred hereinafter as "Camp D. Ps." and the others as "non-Camp D. Ps." Amongst the former those who registered themselves have been called as "Registered D. Ps." and others who could not be registered for any reason have been called as "Non-Registered D. Ps."

9. For the rehabilitation of the displaced persons in the Camps at Jammu a Joint Rehabilitation Board was constituted in 1950. This Board was started with the mutual concurrence of the Government of India and the State Government. It was presided over by Lt.-General Tara Singh Bal. The main purpose of the Board was to devise measures for the rehabilitation of the displaced persons on the rolls of the Jammu Relief Camps. The Board prepared a

scheme for the rehabilitation of these displaced persons in the camps. The scheme was prepared after mature deliberations and consulting the representatives of the displaced persons and was approved by the two Governments. It was a well-planned and reasonable scheme and took into consideration all the important factors in the matter of rehabilitation. The first step taken was to assign different Tehsils to displaced persons of various Tehsils, detailed in Annexure E of the Scheme. The assigning of Tehsils was generally done after consultation with the representatives of the displaced persons. The figures of displaced persons given in the Annexure for rehabilitation were as follows :—

	No. of families.	Persons.
1. Displaced persons belonging to non-liberated areas ..	5,812	22,344
2. Diplaced persons belonging to liberated areas ..	2,144	8,669
3. Displaced persons from Pakistan.	191	832
Total ..	8,147	31,846

10. The Government placed as many as 8,922 blocks measuring 7,15,545 *kanals* 9 *marlas* of land situate in different Tehsils at the disposal of the Board. The area of land to be allotted to each family had been fixed by the Board at 8 acres of irrigated or 12 acres of non-irrigated land. This was the standard of block of land to be given to each family. It was allotted on the condition that if any part of the land was left fallow for two consecutive seasons it would be liable to be resumed and that the land should be actually cultivated by the allottee or a member of his family. The scheme provided for remission of land revenue for the first four crops and exemption from the levy of the share of evacuee landlord on the holdings for the first four crops. These last two concessions have not been finally decided upon and are under the consideration of the State Government. It also provided for continuation of free issue of basic rations upto the harvesting of the next crop. In the case of rehabilitation of persons other than cultivators, the gratuitous relief of rations and cash

doles was to be issued for nine months from the date of rehabilitation. One tent was to be temporarily issued to each resettling family to be used in the area for resettlement. Rehabilitation loan of Rs. 500 per displaced family was to be granted for (*a*) construction of houses (*b*) purchase of plough animals (*c*) purchase of agricultural implements, and (*d*) seeds. The land that was in the first instance kept at the disposal of the Joint Rehabilitation Board for allotment to the displaced persons was the evacuee property, and for this purpose Land Allotment Committee was constituted, but later on escheat and Khalsa land, was also, in some cases, kept at its disposal. The displaced persons from the liberated areas were also rehabilitated according to this Plan.

11. Out of a total of 8,500 families in Nagrota Camp, 5,500 were dispersed and rehabilitated according to the plan but 3,000 families belonging to Poonch refused to be rehabilitated according to the Board's plan. They had been allotted Rajouri Tehsil but only 200 to 300 families went to Rajouri and the rest did not agree to move there. The Board had consequently to surrender a large number of blocks in Rajouri Tehsil. Subsequently about 2,000 families were further settled in different areas and about 1,000 families remained yet to be settled. These families who did not like to disperse according to the plan, on leaving Nagrota Camp, formed themselves into subsidiary camps, not under Government control, at Simbal, Bhor and Badhial.

12. As the pressure on land increased particularly in Ranbirsinghpura and Jammu Tehsils, the unit of land meant for each family had to be reduced from 8/12 acres to 4/6 acres and recently when pressure became very acute it was further reduced to 2 acres. In cases where two acres were allotted the allottees have resorted to some other professions, agriculture being only a subsidiary occupation with them. Three months cash doles were given by the Commandant at the time of their dispersal and the balance was to be disbursed by the Tehsildars concerned. The loans from the Government of India were advanced only to those who settled on land.

13. After finishing the rehabilitation of Nagrota Camp D. Ps, the Joint Rehabilitation Board was given the task of rehabilitating the Yole Camp displaced persons also. These latter had been sent to PEPSU, Nurpur and Pathankot and about 500 families were settled near the Ujh bridge. This was in addition to 1,275 families from Yole already settled in Samba and Naushera Tehsils. It was stated by the Provincial Rehabilitation Officer that it would take about six months more to rehabilitate them fully.

14. The land allotted to these displaced persons on rehabilitation by the Joint Rehabilitation Board was 1,88,210 acres as detailed below:—

(*a*) 1,83,667 acres from the evacuee land.

(*b*) 921 acres from Khalsa and escheat land.

(*c*) 3,542 acres from Rakhs and Farms.

The Provincial Rehabilitation Officer has stated that the funds allotted by the State Government were mostly spent on the 'non-camp displaced persons.' He stated that besides lands *Taqavi* loans of Rs. 250 per family at an average were given from the State exchequer. In regard to statistics of the non-camp D. Ps. the Provincial Rehabilitation Officer has further stated that the total number of non-camp D. Ps. was estimated at 5,78,000 persons out of whom 5,60,000 have already got themselves rehabilitated. Cases of about 1,000 families, *i. e.* about 5,000 persons were pending at various centres, mainly because these families wanted land of their own choice and not what was available with the Rehabilitation Department. He has further stated that sufficient land was still available to accommodate the remaining families under rules, if and when they apply.

15. It may be added here that about 600 families of non-liberated area of Muzaffarabad district went to Jammu for rehabilitation. About them the Provincial Rehabilitation Officer has stated that "these displaced persons were given some land which they did not accept. They did not want Kandi land. They did not have their own houses. The Government have given them some land which is near Marh in Jammu." They have not been rehabilitated in Kashmir because according to the Provincial Rehabilitation Officer Kashmir no land was available there. This would show that the rehabilitation of Muzaffarabad displaced families has not so far been effected.

16. The Provincial Rehabilitation Officer, Jammu, has given in Appendix 'X' of his memorandum a statement showing contributions made by various agencies towards the Relief and Rehabilitation of displaced persons in Jammu Province :—

		Rs.
1.	Expenditure incurred by the Central Refugee Relief Committee, Jammu ..	3,00,000

		Rs.
2.	Expenditure claimed to have been incurred by Dharmarth Department on relief to refugees ..	15,00,000
3.	Expenditure incurred by Rehabilitation Department ..	56,11,170
4.	Cost of food rations dropped from Air at Poonch through Army Dakotas ..	3,18,741
5.	Cost of timber granted free to D. Ps. by Forest Department ..	7,03,731
6.	Cost of timber granted free to D. Ps. by Revenue and Evacuee Property Department ..	1,60,000
7.	Remission of land revenues ..	30,58,411
	Total ..	1,16,52,053

The details of expenditure under most of the above heads have also been given in the enclosures of the memorandum. All this will show that both the Government of India and the State Government spent huge amounts on rehabilitation of displaced persons and if their rehabilitation has not been complete and satisfactory it can only be attributed to lack of proper planning at proper time and to lack of experience as also due to great complications inherent in the solution of this most difficult problem.

17. A large number of witnesses appeared and deposed in regard to the question of rehabilitation at most of the places visited by the Committee and a large number of memoranda were also submitted to the Committee. From the oral and documentary evidence different problems from different places have come to the notice of the Committee.

18. After giving close and careful consideration to the various questions connected with the rehabilitation of displaced persons,

the Committee think that it will not be possible to discuss the questions raised at different places in detail and propose remedies therefor. The questions which have been raised are so large and of varied a nature that it would require lot of space and time to deal with them. The Committee would, therefore, propose to deal with those problems which are common to all the displaced persons in different parts of the State and would suggest generally the remedies for those intricate problems. Solutions which we propose to suggest will not be such as can be implemented immediately. These will require sometime for their implementation under the supervision of an authority appointed by the Government.

19. The Committee would, therefore, suggest that a whole time Officer should be appointed to look after the rehabilitation work. The Rehabilitation Department now is not an entirely separate department with separate staff. At one time the Governor of Jammu Province was appointed as the Provincial Rehabilitation Officer and after the abolition of the post of the Governor the duties of the Provincial Rehabilitation Officer were assigned to Lt.-Col. B. S. Samyal, Director General, Food and Supplies. From this it is clear that the Director General Food and Supplies had to do this work in addition to his normal duties. This consequently could not allow the Provincial Rehabilitation Officer to devote his whole time to the important work of rehabilitation. Wherever we have been we have found that the rehabilitation of D. Ps. has not been effected satisfactorily. There is general dissatisfaction among the D. Ps. of which the Government is well aware. We happened to see one of the camps referred to above, namely Simbal Camp. The people in this camp were very sore and going round the camp we were moved to great pity having seen the appalling condition of the surroundings of the tents in which the D. Ps. live. There were lot of cess pools about and although the Government is not directly or indirectly responsible for this camp yet the fact remains that it is a sad commentary on the implementation of rehabilitation plan. Five to six years have passed and it is not clear why efforts could not be made to settle them properly even at the places which the inmates of this camp had selected for themselves. Even those whom the Provincial Rehabilitation Officer claims to have rehabilitated, the impression we got in our hurried tours, are not properly settled. The magnitude of the work being great it is necessary to have an independent and whole-time officer for this work.

1. The Committee, therefore, proposes that the Department of Rehabilitation should be overhauled and re-organised and placed

incharge of a whole-time officer who should be a man of proved efficiency and tested integrity to be designated as Rehabilitation Commissioner with jurisdiction throughout the State.

2. This Officer should be provided with adequate staff of experienced and efficient hands preferably of his choice.

3. This Officer should be assisted by a Central Rehabilitation Committee consisting of officials and non-officials. The official members should be the Deputy Commissioner Central who will deputise the Revenue Commissioner and the Custodian Evacuee Property. There should be two non-officials who should be representatives of displaced persons from non-liberated area. The Provincial Rehabilitation Officer shall generally act on the advice of this Committee and take measures suggested by them.

4. There should be District Rehabilitation Committee in such districts as may be necessary and those District Committees should be presided over by the Deputy Commissioners of the Districts. Each of these Committees should be composed of two officials and two non-official representatives of the displaced persons. The Deputy Commissioner concerned shall be the District Rehabilita- Officer and shall generally act on the advice of the Committee as far as practicable.

5. The Government shall make detailed rules in regard to the respective functions of the Central Rehabilitation Committee and the District Committees, both in regard to the conduct of business and in regard to their powers. If necessary, legislation should be taken up for grant of necessary powers in this behalf.

6. The District Committees shall work under the Central Committee and submit monthly reports of progress to the Central Committee which will later on submit these to the concerned Ministry after proper consideration and comment.

7. The Rehabilitation Commissioner will tour all the districts and watch the progress of rehabilitation in the districts removing all the difficulties and grievances which the displaced persons put before him in consultation with the District Rehabilitation Committee as speedily as possible. He will also take advantage of the evidence collected by us and will in his very first survey of about three to four months submit a detailed report to the Government showing the progress of rehabilitation made so far. He will also ensure as to how far the suggestions made by this Committee have been implemented.

8. The Committee have thought over this matter very carefully not only at this time but even during the course of the inquiry and they are of the opinion that the most suitable person for appointment as Rehabilitation Commissioner would be Brigadier Udhey Chand. Should this suggestion find favour with the Government, the extra cost involved on the appointment of this gentleman would not be much. The Brigadier is already drawing a pension of Rs. 400 and if according to rules the Government were to allow him the pay he was drawing at the time he was put on the retired list they shall not have to incur an additional expenditure of more than Rs. 400 per month. This Officer, as is known to the Government, is not only a displaced person himself but has acted as Administrator with very wide powers delegated to him by the Government during the most troublesome days of 1948-49. His main duty those days was to rehabilitate displaced persons within his jurisdiction and he has played an important role in this behalf.

9. We are now enumerating some of the main grievances of the displaced persons which have come to our notice during our tours and our suggestions pertaining to them :—

I. The Joint Rehabilitation Board has no doubt settled on land a large number of displaced persons. These lands mostly belong to the evacuees. Under the Administration of Evacuee Property Act the ownership of evacuee land vests in the Custodian in trust for and on behalf of the evacuee. The Government, therefore, is not competent to transfer ownership right of such lands to the allottee. All that the Government can do is to allot all interests and rights of the evacuee in such lands short of ownership rights. The displaced persons knowing that they have been settled on evacuee land do not feel secure and do not put in their maximum efforts to improve those lands. Their feelings are, as has been deposed before the Committee, that they will be ejected from the land as soon as the real owner comes. Some instances have been cited where displaced persons were dispossessed of the lands on the return of the evacuee. It was represented before the Committee that assurance was given to them by the Joint Rehabilitation Board that they would not be dispossessed unless some other land was found for them.

We are informed that the Government have passed an order No. R-9410-32/52 dated 28th January, 1952, which reads as under :—

> " The Hon'ble Revenue Minister has been pleased to observe that in such cases where evacuee lands have been allotted to a displaced

person and the evacuee returns, the latter (evacuee, should be given other cultivable land for about a year by that time land for the displaced person may be found out."

(*i*) Most of the displaced persons do not know about this order and hence there is uncertainty in their minds. The displaced persons settled on these evacuee lands should be informed of this order and they should be assured that they would not be disturbed from the land on the return of the evacuee unless they are given some other land instead.

(*ii*) The displaced person should be entitled to compensation for any improvement effected by him on the evacuee land with the permission of the Custodian.

(*iii*) If the displaced person is asked to vacate the evacuee land allotted to him and he is given some other land instead he should be given fresh financial aid to settle on that land, where necessary.

Unless the displaced person has a feeling of certainty and assurance that for all practical purposes he is permanently settled he will not feel mentally rehabilitated nor give his best attention to the cultivation of the land. We think that if he is given the assurance that on the return of the evacuee he will not be displaced unless some other land is allotted to him and that he will be given financial assistance when necessary at the time of resettlement and will be paid for the improvements which he has effected on the evacuee land with the permission of the Custodian, he will feel rehabilitated to a great extent.

II. The Joint Rehabilitation Board fixed a certain standard of 8/12 acres and later on revised it to 4/6 acres. The displaced persons deposed before the Committee that these standards have not been adhered to in majority of the cases.

The pressure on land is certainly very acute, but allotment of units of land below four acres irrigated or six acres unirrigated would not be helpful. The unit should be such that it should be sufficient for the maintenance of a family. In this behalf we would suggest that after proper survey a standard acre should be fixed keeping in view the productivity of the soil in those districts and in terms of that standard acre displaced persons should be allotted lands in different districts, commensurate with the strength of the family of the allottee.

An acre of land in Ranbirsinghpura may be considered to be a stantard acre and if two acres of land are allotted to a family of five in Ranbirsinghpura, such a family, if settled in Udhampur, should be allotted at least four acres, as two acres of Udhampur land would be approximately equal to one standard acre of Ranbirsinghpura.

III. It was represented to the Committee by the displaced persons that they would not like to be separated from their kith and kin and live at a great distance from each other. It was stated by them that they have been victims of misfortune, having lost all their earthly belongings, their near and dear ones, and now they would like to live together, as far as possible. This appears to be a natural result of all what these people had to experience in the past and efforts should be made that the displaced persons of a Tehsil or a particular locality are settled in compact areas as far as possible. Likewise persons closely related should be allotted lands near each other.

IV. It was represented before the Committee that displaced persons from West Punjab had come and settled on lands in certain Tehsils of Jammu Province. Different figures have been given by different persons in regard to the number of persons who came from West Punjab and settled on lands in our State. It was contended that these people had obtained allotments of lands in the East Punjab and had also occupied lands in our State and had thus obtained double allotments.

In regard to this it appears that only those persons get land in East Punjab who had lands in the West Punjab and not those who were landless. The Provincial Rehabilitation Officer has stated that there were only 3,000 persons who had come from that side and that 2,340 out of them had already returned to East Punjab. It was further stated that those persons were not allotted lands by any authority or person but that they had occupied and cultivated the lands in the State which they, on their arrival from West Punjab, found lying vacant.

The Committee proposes that the Deputy Commissioners of each district should find out the number of persons (Non-State Subject) in their respective districts who have migrated from outside and have settled on lands in their districts. They should further ascertain whether these persons have got any allotment outside the State or not. In case it is found that a displaced person from outside who has been allotted land in the State, has also been

allotted land outside the State, in such cases the displaced person having received double allotment should be ejected.

It has also been represented before the Committee that the displaced persons from outside who have received allotment in the State also should be ejected so that the land under their accupation may be available for the displaced persons of the State. To us it appears that in the ordinary course of things no land should have been allotted to a displaced person from outside the State nor he should have been permitted to occupy any land on his own. May be that State Subject D. Ps. who have gone out of the State have been given lands in India for their resettlement. The correct procedure would have been that Government of India did not allot them land likewise in India. This is, however, a matter which should be examined by the State Government and taken up with the Government of India, if necessary. Certainly no displaced person whether State Subject or not should be in receipt of double allotment and efforts should be made to eject such double allottees immediately.

V. It was represented before the Committee that the local population had taken possession of evacuee lands and thus deprived the displaced persons of those lands. It was contended that if locals were dispossessed of such evacuee lands large areas of evacuee lands would become available for allotment to displaced persons.

In regard to this contention the locals may be divided into two categories, namely locals belonging to secure zones and those belonging to insecure zones.

So far the locals of secure zones are concerned, they have no right over the evacuee land, and they should be dispossessed of those lands immediately and the lands so released should be allotted to displaced persons.

The case of locals belonging to insecure zones, if any, is somewhat different. If they cannot be forced to go to their own lands which are situated in insecure zones, they have to be allotted lands in secure zones and if they are already in possession of evacuee lands they may not be dispossessed, until such time as they can be safely placed on their own lands.

VI. Some landless persons of the locality have also obtained evacuee lands. Evacuee lands should not go to them. The escheat

and Khalsa lands should be utilized for being given to the landless people but not the evacuee lands. Evacuee land should, as a matter of principle and priority, go to the displaced persons only.

VII. There was a Government Order No. 1476-C of 1950, dated 16th December, 1950, which was to the effect that "all agricultural land left by the migrants should be pooled for allotment to displaced persons only and that persons owning lands in safer zones and partly rehabilitated villages and holding evacuee lands in the interior should be dispossessed of these allotments."

This Government Order was superseded by Order No. 913-C of 1951, dated 7th August, 1951, which directed that :—

> "Locals owning lands less than the prescribed standard, *i. e.* 4 acres irrigated or 6 acres unirrigated shall be disposed of such part of evacuees' land in their possession as together with their own land exceeds the prescribed limit, *i. e.* 4/6 acres."

Landless tillers holding evacuee lands are under the above Order likewise permitted to hold such lands to the extent mentioned above. It is under this Order No. 913-C of 1951, that land was given to locals and landless persons even though they were in safer zones. Displaced persons came from areas which were held by the enemy and, therefore, in the Committee's view their right to the land left by evacuees was much greater and, therefore, the first Order, namely No. 1476-C of 1950, was more just and equitable than the one, namely 913-C of 1951, which superseded it. It has to be recognised that locals living in safer zones and landless persons can claim lands from Khalsa and escheat lands and not from evacuee lands. The Committee would suggest the supersession of Government Order No. 913-C of 1951, and the restoration of Order No. 1476-C of 1950.

Moreover it has been brought to our Notice that the locals under Order No. 913-C have obtained allotments at different places or more than one allotment in the names of different members of the family. The result has been that one family has got more land than its needs. The Deputy Commissioner of each District will try to ascertain such cases and get excess land released from them.

VIII. It was deposed before the Committee that a displaced person's unit was made up of fragments of land spread over different places which cannot be managed by him properly. The

Committee think that so far as possible there should be consolidation of land given to each family so that the family may have one consolidated block and not plots situate at different places.

IX. (*i*) It was represented to the Committee that some of the displaced persons who did not belong to the Agriculturists Class had also been allotted land. Such displaced persons like traders residing in towns should not have been given lands. There is a good deal of force in this contention and the Committee propose that people who were or are traders should not be settled on land. They should have correctly been advanced business loans to rehabilitate them in their vocations.

(*ii*) Village artisans—carpenters, blacksmiths, barbars etc. should be rehabilitated in each village so that the village community needs may be satisfied from the village itself, and pressure on land released to that extent. These village artisans should be given land only for construction of houses and necessary loans for constructing the same.

X. It was represented before the Committee that the loans advanced to the displaced persons on dispersal from the Camps had not in some cases, been utilized for the purpose for which they were meant because the lands allotted were not fit for cultivation with the result that these amounts were spent on other necessaries of life.

We have noticed that after the loans were advanced to the displaced persons there was no check to find out as to how they should utilize such loans. For example a loan meant for the purchase of bullocks and agricultural implements, should have been advanced in kind. *i. e.* bullocks and agricultural implements when needed by a displaced person should have been supplied to him or the displaced person should have been asked to purchase these things on his own to the satisfaction of local Revenue Officer. This has not been done. And now most of the displaced persons have neither bullocks nor agricultural implements to cultivate the lands allotted to them. The lands are lying fallow and the allottees are feeling quite helpless. In such cases claims for fresh advance of loans is the necessary result.

XI. The time for repayment of loans has commenced. It would be proper if payment of instalments already fixed is revised and the amount of each instalment reduced as may be within the paying capacity of the displaced persons.

XII. There is a great grievance among the non-camp D. Ps. that they have not been given the same facility as has been given to the camp D. Ps. Their contention is that they did not join the camps and thus did not burden the Government with extra expense. It was not just that their claims should have been ignored at the time of allotment of lands and facilities given to the D. Ps. Similarly the non-registered D. Ps. have complained that they have also been deprived of certain concessions given to D. Ps. in general, because of the fact that they had not got themselves registered. Regarding this another grievance is that the assurance given to them at the time of dispersal of the camp for spliting their ration cards—in cases in which a joint ration card had been issued in favour of one family—has not been fulfilled.

Another important class of non-camp D. Ps. is that of the Government Servants belonging to liberated or non-liberated areas as were displaced. It may be contended that their case is not so hard as the case of other D. Ps. who were, besides the other miseries commonly shared by them and this class, deprived of their earning the livelihood too. That may be correct so far it goes but the fact remains that even these Government servant D. Ps. have lost their hearths and homes and may be, some of their family members and near relatives and have not been given any facility in the whole scheme of rehabilitation of the State. The Committee understand that they were perhaps given some G. P. Fund advances out of their own accumulations for construction of their houses etc. which were recovered under certain rules. As no substantial aid has been given to them by the Government their case is specially brought to the notice of the Government for giving them at least the same, if not, better, facilities as given to other D. Ps.

The contentions of the non-camp D. Ps. and those of unregistered camp D. Ps. are forceful and deserve consideration. If these D. Ps., on their own initiative, worked for their living that should not have handicapped them from obtaining the benefits and amenities which were given to other registered and camp D. Ps. Incidentally the claim of the non-camp D. Ps. is stronger than the unregistered camp D. Ps. Now that the time of rehabilitation has come they should be given the same facilities as have been given to camp D. Ps.

It is suggested that complete census should be taken of all non-camp D. Ps. as well as unregistered D. Ps. Such displaced persons should be informed by notice published in the Government Gazette and beat of drum in all Tehsil headquarters and through

radio to make applications for registration before the District Rehabilitation Committee. One month's time should be given for making such applications. After receipt of such applications a complete list of non-camp and unregistered D. Ps. shall be drawn up with all necessary details. Those amongst them as have not received benefits given to other D. Ps. should be given the like relief.

XIII. All evacuee houses in the villages should be allotted to displaced persons. Locals who have their own houses and have taken possession of evacuee houses should be made to vacate the evacuee houses and to live in their own. The evacuee houses should be given to the D. Ps. on nominal rents.

XIV. Rehabilitation of Muzaffarabad D. Ps. has not yet been effected. Their rehabilitation should be taken up immediately. Those families who were agriculturists should be rehabilitated on land and others should be advanced loans for trade and crafts. In the case of latter they should further be given one *kanal* of land per family from Khalsa land for construction of houses near town and urban areas.

Some D. Ps. have expressed their desire to be rehabilitated in Kashmir Province but the Provincial Rehabilitation Officer Kashmir has stated before the Committee that due to scarcity of land in the Valley they could not be rehabilitated there. In the course of inquiry at Uri the Committee was told that land for 32 families could be easily provided for in that Tehsil. Out of these Muzaffarabad D. Ps. as many families as can be allotted land in Tehsil Uri should be rehabiliatted there.

XV. Many urban families at present are living in Jammu and other towns and adjoining places and their main problem is housing. A scheme has been prepared by the Rehabilitation Department for establishing a colony for such families in the vicinity of Jammu where 700 families will be settled. This scheme has not even yet been finally sanctioned. Steps should be taken for early sanction of the scheme and its execution. A small model township should be established with all amenities. The houses should be properly planned before their construction is taken in hand. The Committee was given to understand at Sunderbani that there also the Government was contemplating a small township of which we were shown some blue prints there. The Government should implement these schemes at top speed. This will equally apply to what may be contemplated by the Government to be done elsewhere.

XVI We have visited some places where D. Ps. have put up their temporary hutments for their residence and we noticed that no sanitary arrangements were made for the residents of these hutments. In Jammu malaria already takes a huge toll of life and no preventive measures have been taken in those areas against malaria. The Committee found stagnant water collected near these hutments which would breed mosquitos and will result in malaria epidemic. It is, therefore, suggested that precautions should be taken to eradicate malaria from the places allotted to D. Ps. for residence and proper sanitary arrangements made for these residential localities.

XVII. Adequate educational facilities are not provided for the children of D. Ps. There is no High School from Akhnur to Poonch in which area 20,000 D. Ps. have been settled. A High School should be provided somewhere between Akhnur and Poonch.

At the request of the Committee the Inspector of Schools has prepared a detailed proposal in regard to the educational facilities for the children of the D. Ps. The Committee stronoly commend that proposal for the consideration of the Government.

Further the following suggestions may be considered by the Government :—

(*i*) The children of D. Ps. as a class be exempted from fees in Schools and Colleges.

(*ii*) The children of D. Ps. should be granted special scholarships in Schools and Colleges and for vocational and technical training.

(*iii*) Free supply of books should be made to the children of D. Ps. and it was suggested to the Inspector of Schools that the books of the children going to higher classes may with advantage be collected by the School Staff and distributed among the children of the lower class free of charge and the children from whom these books are taken are compensated to enable them to purchase books.

XVIII. It was represented before the Committee that as a result of the raids of the Poonch *illaqa* a number of public servants of the Poonch Administration were placed on the waiting list and they were-given to understand that on restoration of normal conditions they would be reabsorbed as far as possible. It was further

represented that in consequence of the integration of the administration of Poonch *illaqa* with that of the State very few of the persons on the waiting list were absorbed and the rest were retired. It was represented that these persons were retired prematurely. According to them this had added further to their miseries. Their prayer was that they should be re-appointed on suitable vacancies. The Committee are of the opinion that the cases of persons who are on the waiting list and have been retired should be reconsidered and steps taken for reabsorbing those who are otherwise fit for service, and have at least five years or more of service to put in. Some of them have applied for pensions but due to the fact that all the Departments of Poonch have been amalgamated with those of the State their records cannot be completed easily with the result that their pension cases could not be settled so far. It is suggested that suitable steps should be taken and the concerned departments impressed upon to complete their pension cases without any further delay.

XIX. It was represented before the Committee that displaced persons have deposits in the Mirpur and Muzaffarabad branches of the Jammu and Kashmir Bank Ltd. which have not so far been paid to them. It appears that the question of the claims of creditors and depositors of the Jammu and Kashmir Bank Ltd. came before the Government and under Order No. 1124-C of 1951, dated 20th September, 1951, a Committee was appointed to go into the matters arising in connection with the claims of creditors and depositors of the Mirpur and Muzaffarabad branches of the Jammu and Kashmir Bank Ltd. and to suggest ways and means for safeguarding the interests of both the Bank and creditors and depositors. Nothing substantial, however, appeared to have been done for two long years.

In the meantime under Ordinance No. III of 2008 institutions and hearing of suits and other proceedings against Banking Companies were stayed for a period of one year. This Ordinance expired on 24th Assuj, 2009, and another Ordinance No. III of 2009 was promulgated and published in the Government Gazette dated 15th Katik, 2009, staying for a period of six months institutions of suits etc. against Banking Companies.

By another Government Order No. 63-C of 1953, dated 28th January, 1953, the previous Committee appointed under the above Cabinet Order was dissolved and it was ordered that the Finance Minister shall in order to meet the legitimate demands of the creditors and depositors of Mirpur and Muzaffarabad branches of the

Jammu and Kashmir Bank Ltd. and after proper scrutiny dispose of them within a couple of months in the light of the judgment of the High Court in case Barkat Ram *vs.* J. & K. Bank Ltd. There is no reason why the suits of the private individuals against the Banking Companies should be stayed any longer. No depositor who has a claim against the bank should be debarred from taking recourse to legal remedies, if so advised. This would not only be equitable but also in the interests of the Banks themselves as otherwise it will reflect adversely on the financial standing of a Bank itself if the claims against that Bank are stayed like that.

The Finance Secretary was examined and so was the General Manager Jammu and Kashmir Bank Ltd. The General Manager has given a detailed list of depositors and creditors whose claims are in dispute. The Finance Secretary has said that certain test cases were being examined by the Finance Minister and after orders thereon were passed the disposal of other cases would be easy. He assured the Committee that by the end of Baisakh, 2010 these cases would be disposed of. The Committee is now (mid Jeth, 2010) informed that the Finance Minister has not so far been able to take any action in implementing the Cabinet Order and that, therefore, no headway has been made in this matter so far.

The observations made above should apply equally to deposits made by displaced persons in different Co-operative Banks. All the Co-operative Banks should settle the claims of depositors and creditors within a certain fixed time. In regard to Poonch, however, we have a definite comment to make. Witnesses who appeared before the Committee there complained in very strong terms that not only their shares have not been paid back after the liquidation of various Co-operative Banks but also that their deposits had not been refunded to them so far. It is not clear why the Co-operative Department has not taken any action in the matter during the last six years. The Committee feel that this matter has not been brought to the notice of the Government so far and, therefore, no effective action has been taken. The Government will be well advised to institute an immediate inquiry and expedite settlement.

XX. Post Offices shall be opened and roads constructed for the D. Ps. Well equipped hospitals with proper nursing staff is badly needed at different places and should be provided for the benefit of the locals in general and the D. Ps. in particular.

XXI. Widows, orphans and old men who have been allotted lands but are unable to cultivate themselves should be allowed to get their lands cultivated through relatives or agricultural labour.

In Rajouri 45 widows complained that they had not been rehabilitated so far. They asked for land and there is no clear reason why they should not be provided with some land to enable them to eke out their livelihood.

XXII Some State Subject D. Ps. who are temporarily settled in PEPSU and Bhopal had expressed their desire to come to the State and settle where their relations had been rehabilitated. They have asked for conveyance facilities and other financial aids. These cases should be considered early and sympathetically.

XXIII. Some non-camp D. Ps. have not been granted timber for the construction of houses which should be provided to them now.

XXIV. The Committee are told that there is much land available towards Kalakot Coal mines. That part of the country should be developed and roads provided in order to settle some of the D. Ps. on that side of the country. Moreover the coal mine can be exploited which will provide employment to a number of D. Ps. and incidentally solve the fuel problem in Jammu.

XXV. A number of families from Yole Camp have been allotted lands on the bank of river Ujh. This land is flooded when the river is in spate. These families who are settled there are likely to be displaced again. In order to avoid further misery to these families, the Government should take immediate steps to either make these lands free from danger of flood or shift them to some other place and allot them lands there.

Kashmir Province.

10. The Director General Rural Departments who is also the Provincial Rehabilitation Officer for Kashmir has stated in his memorandum as follows :—

"The total number of displaced families in Kashmir Province which migrated from the raid affected areas of that Province, was about 7,000 comprising of 42,136 souls. These families were given free rations and free shelter and also provided with other amenities in Srinagar city. Besides these families, some 40,000 people from Tehsils Reasi and Ramban, Pogal Paristan *illaqa* etc.crossed from Jammu to Kashmir Province, where they were temporarily given shelter in Tehsils of Kulgam and Anantnag. In case of the latter category both Government and the people co-operated in giving shelter to these displaced persons. When, however, conditions in Jammu Province returned to normal, these people were sent back for resettlement to their original homes in Jammu Province.

On feeding both the above categories of refugees, the Government spent a total sum of Rs. 12,15,774/8/8.

"The total number of displaced families belonging to liberated and non-liberated areas of Kashmir resettled by this Department ending Magh, 2009, involving an expenditure of Rs. 9,05,836 stands as 5,962. The following table will show the details.

	Families.	*Amount.*
		Rs.
(1) Families belonging to liberated area of Kashmir resettled in their original places of residence after advancing loans for reconstruction of houses to them ...	5,096	8,14,331
(2) Families from Tawbut resettled at Kilshahi and Kalgai Uri	119	18,300
(3) Families belonging to liberated area of Kahsmir resettled as traders ...	67	25,450
(4) Families belonging to Uri Tehsil District Muzaffarabad resettled in their original places of residence.	21	11,010
(5) Families belonging to Muzaffarabad (non-liberated area) resettling as traders in Kashmir.	69	17,930

	Families.	*Amount.* Rs.
(b) Families belonging to Muzaffarabad District (non-liberated area) resettling in Jammu as Agriculturists to whom transport charges alone have been paid by this department.	590	18,815
Total ...	5,962	9,05,836

"In addition to the above, 65 displaced families belonging to the liberated area of Kashmir encamped in Relief Camp Yole (Kangra) were sent to this place for their parmanent resettlement in their original places of residence. Out of these 65 families only 55 families have been advanced loans at Rs. 500 each for construction of their houses.

"A tota amount of Rs. 9,14,281 has been advanced to the displaced families in connection with their resettlement as various kinds of loans from 2005 ending Magh 2009 and in addition to this an amount of Rs. 19,055 has been paid as transport charges to refugees from Muzaffarabad district for moving to Jammu and Uri for resettlement. Besides an expenditure of Rs. 1,57,853 has so far been incurred as cost of timber and mulberry wood supplied free of cost to these resettling refugees".

11. The Provincial Rehabilitation Officer has further stated in his memorandum that :

"In the beginning three middle schools were actually opened for the refugee children in the vicinity where they were predominently living. Aid for books, college, school and university fees were being provided by this Department to deserving cases. An expenditure amounting to Rs. 3,631/11/- has been incurred in this connection."

12. As already stated the problem of rehabilitation in this Province was not so difficult as in Jammu Province.

13. The Director General has stated that 592 families of Muzaffarabad District remained in Srinagar for three years and were then sent to Jammu for rehabilitation because land was not available in Kashmir Province for their rehabilitation. Between 100 to 200 families of Handwara were not willing to move back to their original houses and all efforts to persuade them to do so in the past did not meet with success. They preferred to remain in Baramulla. The Director General further said that he had now received information that these families were now willing to go back to their original places.

14. There is the problem of rehabilitation of Muzaffarabad displaced families and that of the displaced families of Handwara.

In regard to these the following suggestions are made :—

(1) In regard to 592 families of Muzaffarabad who have gone to Jammu, their rehabilitation is now the responsibility of the Jammu Provincial Rehabilitation Officer but out of these families some can be easily settled in Uri Tehsil as has been stated by a responsible witness who appeared before us in Uri. This witness has been connected with the rehabilitation work and his suggestion is worth consideration.

(2) The Provincial Rehabilitation Officer will personally contact the Handwara displaced families and take necessary steps for their rehabilitation in their original places and afford to them all necessary help by money in this connection.

(3) Some persons who claim to be Muzaffarabad displaced persons have suggested allotment of some land situate in the city of Srinagar for construction of houses. Their application has been forwarded by the Director General to Government. The Director General should personally examine the plots suggested by the displaced persons and see if their allotment is feasible and then make definite suggestions to the Government.

(4) At Baramulla we received complaints from displaced persons that they had to encounter lot of difficulties in getting the loans from the Rehabilitation Department which were sent to them by the Government of India. It was brought to our notice that a displaced person had to spend to the extent of Rs. 100 to get the loan of Rs. 500 already sanctioned in his favour and thus he received only Rs. 400 out of this loan. This was put to the Provincial Rehabilitation Officer in the course of his evidence before the Committee and his reply to this was that the amount spent in getting the loan was an exaggerated figure. We see no reason to disbelieve the statement before us by a displaced person at Baramulla and the fact remains as confirmed that displaced persons had to part with some portion of the loan in order to get the loan. This is a despicable state of affairs and the Provincial Rehabilitation Officer incharge of rehabilitation should enquire into such cases and take suitable action against the delinquents.

(5) The recovery of loans given to displaced persons should be postponed by a year or so and easier and smaller instalments should be fixed for their payment.

15. The Committee feels that the Provincial Rehabilitation Officer (Director General Rural Departments) has exercised unlimited powers in the matter of distribution of cash doles and loans. Whereas there was some sort of planning in Jammu the Committee

feels that there was no such planning whatsoever in Kashmir Province. Everything seems to have been left at the discretion of the Provincial Rehabilitation Officer so much so that his powers of determining financial aid to an individual displaced person or a family was unrestricted. Had there been some planning certainly the Government could have fixed certain limits, laid down certain schedules to avoid subsequent confusion and dissatisfaction among the D. Ps. in this Province. This was put to the Provincial Rehabilitation Officer during the course of his evidence before the Committee and he stated that proper accounts had been maintained for the entire period which had also been audited by the Accountant General but he did not say as to how much out of the total expenditure incurred by him had been admitted in audit and as to how much held under objection for want of proper accounts, sanctions, etc. etc.

16. There has been displacement of 47 families in village Matayan of Kargil Tehsil. The Matayan displaced persons are mostly living in different villages in Niabat Gandarbal. In our tours towards Gund two of them met us at Gund. On ascertaining facts from them we were told that no list of such D. Ps. existed any where. The Naib-Tehsildar who happened to be there was asked to send a list of these D. Ps. to the Committee as he had not an exact idea as to how many of them had gone back to their original places and how many were moving about as nomads in the city of Srinagar and round about. He has now sent a list from which it appears that 13 or 14 families have returned to their village and 32 families consisting of 138 members are yet living the life of nomads in Gandarbal Niabat. Under Government Order No. RC-142/51, dated 24th December, 1952, a sum of Rs. 3,000 has been sanctioned for their relief. This amount is chiefly meant for construction of houses which work has not so far been taken up as the village was under snow.

17. The Deputy Commissioner Ladakh should lose no time in utilizing this amount and requisitioning more money if needed. In the meantime, the Deputy Commissioner should arrange for their free rations etc. through the Tehsildar Srinagar. They should be provided with every help and benefit until their complete re habilitation in their own village.

18. It was brought to notice that there was displacement of a number of families in Zanskar *illaqa*. The statistics in regard to them have not been compiled nor was any relief given to them so far. The Deputy Commissioner Leh should prepare a list of these displaced families immediately and also a detailed scheme for their rehabilitation and submit the same to Government for orders and

in the meantime relief in the form of free rations etc. should be provided to them. No time should be lost in rehabilitating these displaced families.

19. These items, we recommend, should be on the top-priority list of the Rehabilitation Commissioner whose appointment has been recommended while dealing with Jammu rehabilitation.

WAYS AND MEANS TO BE ADOPTED FOR REHABILITATION OF EX-SERVICEMEN OF THE STATE.

WAYS AND MEANS TO BE ADOPTED FOR REHABILITATION OF EX-SERVICEMEN OF THE STATE.

1. The last question referred to the Committee for report relates to the ways and means to be adopted for rehabilitation of *ex*-servicemen.

2. A large number of persons belong to martial class in our State. They man not only the State Forces but also Indian Forces. In both the World Wars the soldiers from our State displayed great martial talents, bravery and devotion to their country and earned an ever-lasting good name for the State. The State is deservingly proud of them.

3. On the termination of the World War II large numbers of our soldiers were released from the Indian Army and they returned to their homes. Statistics of *ex*-servicemen in Jammu and Kashmir State Forces show that Indian Army pensioners in Jammu Province are 10,689 and in Kashmir Province 1,000, and from the Jammu and Kashmir State Forces 6,500. There are approximately 30,000 *ex*-servicemen in the Jammu and Kashmir State, comprised of Indian Army 60 per cent, Jammu and Kashmir State Forces 30 per cent and Jammu and Kashmir Militia and Border Police 10 per cent. After the Pakistani and tribal raid on our State in October, 1947, the State Forces defended the borders of the State and quite a large number of them lost their lives in the defence of their country. When the Indian Army came to the aid of our State, the State Forces worked under their command until 1st September, 1949, when their entire maintenance and command were taken over by the Indian Army. At that time some regiments of the State Forces were disbanded resulting in throwing out a large number of them out of employment. There are, therefore, *ex*-servicemen who are retired or discharged in the normal course from the State as well as the Indian Army, secondly *ex*-servicemen who were discharged at the termination of the World War II, and lastly *ex*-servicemen who were disbanded when the command of the State Forces was taken over by the Indian Army in September, 1949.

4. Figures relating to *ex*-servicemen of Jammu and Kashmir State Forces available are as under:—

1.	Ex-servicemen of Jammu and Kashmir State Forces released or discharged after 1st September, 1949, living within the State ..	3,524

2.	Ex-servicemen of Jammu and Kashmir State Forces released or discharged after 1st September, 1949, who are living outside the State ..	1,480
3.	Ex-servicemen of Jammu and Kashmir Forces released or discharged on medical grounds from 1st November, 1947, and onwards (Disability pensions) ..	423
	Total ..	5,417
4.	Number of families of serving personnel of Jammu and Kashmir State Force residing in the State ..	7,801
5.	Number of deceased personnel of Jammu and Kashmir State Forces killed or died in action with effect from 1st November, 1947, and onwards (Family pensions) ..	927

5. Not only did the disbandment of some of the regiments of the State Forces in 1949 come almost unawares but the conditions which the soldier had to face on return to home were also not as were expected by him. The soldier had to fall back upon land but due to land reforms introduced in the meantime he did not find it easy to resort to his original profession of agriculture. The largest numbers comprising the State Forces came from Kandi area mainly because lands in Kandi are unproductive and the dependants on this land had to seek their living from some other source. So they joined Army. The *ex*-servicemen found their lands under the occupation of tenants who had mostly been raised to the status of protected tenants and could not be ejected easily. This was foflowed by the Big Landed Estates Abolition Act under which the proprietary holdings of all persons including *ex*-servicemen were reduced to a maximum size of 182 *kanals* excluding orchards, Kahi Krisham areas, Araks, Kaps and such lands including those used for raising fuel or fodder as were unculturable. This Act applies even to such lands as had been granted in recognition of meritorious services in war. The difficult situation in which an *ex*-serviceman found himself in the above circumstances can easily be imagined, and needs no description. His difficulties particularly became very grave because due to the speed with which political and economic changes took place he did not find time enough to adjust

himself to the new circumstances. A retired Military Officer of high rank has stated in his memorandum :—

> "Soldier is nothing but an armed civilian and on retirement he has to revert to his civilian fold. He dare not live in isolation but has to share the common fortunes and misfortunes of the land of his birth. He is liable to be influenced by situations political, economic and social obtaining at any time. Discipline, training and experience acquired during service stand him in good stead in time of ferment and commotion. He can, if he is not of weak moral fibre, exercise a moderating influence on the unruly and turbulent elements of society. If he is attended to that is, if he gets primary needs of life and does not feel neglected, he can be safely depended upon in moments of trial and tribulation. Since ours is a dynamic age, he needs all the more help and guidance to direct his energies towards constructive and nation-building activities".

6. There is a good deal of force in all that has been said above by the Officer ; and in the larger interests of the country as a whole it is necessary that steps for rehabilitation of *ex*-servicemen on a satisfactory basis should be taken up to ensure them a life of reasonable comfort and respect.

7. The Committee strongly feel that recruitment to our defence forces will, to a great extent, be influenced by the state of circumstances in which Army personnel, as a class, are placed on discharge or release from the Army. It would be desirable if a soldier were able to maintain the social status and standard of living to which he was accustomed while in service after reverting to civil life to serve as an attraction for recruitment.

8. The Committee has received a number of memoranda on this subject and has examined several witnesses and after considering the oral and documentary evidence carefully, the Committee make the following recommendations in regard to the ways and means for the rehabilitation of *ex*-servicemen including the *ex*-servicemen released or discharged from Indian Army whether before or after September, 1949 :—

I. It has already been proposed while dealing with Land Reforms that clause IX of Section 15-C of the Tenancy Act as originally enacted by Amendment Act No. VII of 2005 (but which was omitted in the 1st Amendment Act of 2007) should be re-enacted. It will exempt from acquisition of protected tenancy "lands which have been let by a person who is in the Military, Naval or Air Force of the State or the Indian Government". This clause will enable a soldier on return from service to secure ejectment of

his tenant by an easy proceeding. As the soldier has to live upon land on return from Army he should be faced with no difficulty in obtaining the possession of his land from the tenants.

II. Lands have been granted to *ex*-servicemen as *Jangi Inams* or gallantry awards and these lands too have been affected by the Big Landed Estates Abolition Act. When such lands were awarded the soldier was given the option of choosing between land and its equivalent in cash on fixed standards in the alternative. In cases where such lands have been affected by the Abolition Act, the Government should consider to award to the soldier concerned cash in proportion to the land of which he has been deprived according to the fixed standards because he had the option of claiming the award in cash instead of in land.

It has been brought to our notice that 93 Officers were eligible for gallantry award. Out of these, 68 cases have been settled—24 were given land and 44 cash. The remaining 25 cases including that of late Jamadar Prakash Singh V. C. have not been yet settled by the Jammu and Kashmir Government. It is recommended that gallantry awards in case of the remaining 25 cases also be expedited.

III. Such of the *ex*-servicemen as do not own any land or own very small units of land should be allotted land where it is available. They should be allowed to retain a minimum of 17 *kanals* of Abi or 33 *kanals* of Khushki in Kashmir Province and 33 *kanals* of Abi or 65 *kanals* of Khushki in Jammu Province and Ladakh District.

It has been represented to the Committee that lands on borders are lying uncultivated and the civilian population is very reluctant to settle on these lands near the border. Lands on the border should be specially reserved for *ex*-servicemen and they should be supplied with arms as well so that they may protect the border as well as cultivate those lands. It will considerably add to the production of food and also make our borders more secure.

IV. (*i*) It has been represented to the Committee that *ex*-servicemen of the State Forces get very meagre pensions when compared to *ex*-servicemen of the Indian Army. The Committee is gratified to note that the Government have already ordered that the *ex*-servicemen should be allowed family pensions and disability pensions according to the State or Indian Rules whichever entitle them to higher rates. Apparently retiring pensions have been left out for the purpose of this order and it is for the State Government to consider the prayer of this class sympathetically.

(ii) Under the State Rules a widow in receipt of family pension ceases to draw pension on her re-marriage. In Indian Rules, however, there is an exception to this rule *vide* Pension Regulation of Army in India Part II Rules 401/1940 which is in the following terms :—

> "This condition shall not apply to a widow who remarries her deceased husband's brother, and continues to live a communal life with and/or contributes to the support of the other living eligible heirs"

There is no such exception in the State Rules. The above exception should be provided for in the State Rules in regard to all *ex*-servicemen for the purpose of Family Pensions.

(*iii*) It has been represented that family pensions have not been paid to families of the deceased soldiers and officers killed after 1947. Family pensions together with children's allowance admissible under rules should be paid without delay in these cases. It is understood that these pension cases will be expedited and allowed at the rates referred to in para IV (*i*) in pursuance of Cabinet Order No. 551-C of 1953, dated 18th May, 1953.

(*iv*) The dearness allowance on pensions which has been stopped in the State with effect from 1st Baisakh, 2008, should be restored with retrospective effect.

(*v*) The pensioner should have the option of drawing pension monthly instead of quarterly as at present.

(*vi*) If there are any pension cases pending the same should be expedited in whichever office they may be pending.

(*vii*) Some of the displaced *ex*-servicemen from Rajouri and Poonch were receiving their pensions before raids but have not been paid after the liberation of their areas by the Indian Army. Their cases may be decided without delay and pensions restored.

V. There was a Government Order No. 751-C dated 7th August, 1945, reserving certain percentage of all State civil appointments for released State Subject Army personnel who served the last World War. This concession appears to have been overlooked in practice. A new order in this behalf is called for by the Government to the following effect :—

(*i*) Subject to minimum qualifications and fitness in other respects suitable percentage of posts in all civil departments and in all cadres be reserved for *ex*-servicemen.

(*ii*) Subject to fitness *ex*-servicemen should be absorbed in the Militia, Home Guards and Border Police as far as possible and their claims given preference over others.

(*iii*) Other things being equal, *ex*-servicemen should be given preference for executive posts in Forest, Customs, Excise, Police, Transport and Traffic Departments and State controlled mills and factories.

(*iv*) Ex-servicemen who may have formed a unit or units may be given small contracts for construction of roads and bridges, canals, wells and such other works as can be undertaken by them.

(*v*) Those *ex*-servicemen who were drivers in the Army should, subject to passing the test, be given driving licences and not required to work as cleaners first.

VI. The children of *ex*-servicemen should, as a class, be granted exemption from fees both in schools and colleges. Special facilities and scholarships should be granted for vocational and technical training and for handicrafts. Special scholarships of adequate amounts should be granted to children of deserving *ex*-servicemen both in schools and colleges.

VII. The Industries Department should undertaken measures for encouraging cottage industries among *ex*-servicemen and settling them in such industries as poultry farming, bee-keeping, silk rearing, dairy farms, hand-loom weaving, woollen goods etc.

VIII. Free medical aid should be provided for *ex*-servicemen and their families.

IX. (*i*) Re-organisation of the SS & ISSA Boards on sound and better footing.

(*ii*) Appointment of Welfare Officers

(*iii*) Creation and setting up of a Central Employment Exchange with branches in all districts to be attached to the District Soldiers' Board. These Employment Exchanges should look to the employment of *ex*-servicemen in civil departments and act as a liaison between the Boards and the Civil Departments.

X. We are informed that Rs. 2,92,907 is still due from Government of India as the share of the Jammu and Kashmir

State Force units who served under the Crown during World War II. Steps should be taken to recover this fund and consolidate this amount together with another amount of Rs. 27,000 lying with the State Government into one fund to be utilised as Benevolent Fund, Jammu and Kashmir State Forces, to be administered by an appropriate Committee.

XI. The above Fund may be utilised for purposes like Orphanages for blind, old and crippled *ex*-servicemen.

XII. Special rehabilitation grants and land and timber for houses should be given to all displaced *ex*-servicemen.

XIII. Special measures should be taken for all-round development of Kandi area, in particular providing water, Kandi being the area from which soldiers come. The development of Kandi means the development of the soldier.

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OTHER MATTERS.

OTHER MATTERS.

Certain matters have been brought to our notice which did not fall within our terms of reference and we have not, therefore, discussed these so far. But as these matters are of general importance we feel it proper to mention them here for the information of the Government.

I. Representatives of insurance companies, other than the New India Assurance Co. Ltd., presented us with a printed memorandum representing that monopoly of fire insurance of Government buildings and property had been given to the New India Assurance Co. They stated that when they represented the matter to the Government they were told that because of the commitment of the predecessor Government with the New India Assurance Co. the present Government could not redress their grievance till the expiry of the term of agreement entered into with that company. The term of agreement having expired in 1952, they represented the matter to the Government again but the Governmnet renewed the monopoly of insurance in favour of the New India Assurance Company till the end of 1953. Their grievance was that by giving monopoly of this business to only one company the Government was not availing of the maximum advantage which it would derive from open competition between various insurance companies and were depriving the families of insurance agents—which according to them numbered about 800—of their livelihood, in so far as Government business was concerned.

The first question put to these representatives by the Committee was as to how they would bring this matter within the purview of the Committee's inquiry. Their explanation was that giving of a monopoly to one particular firm was a sort of control and, therefore, it fell within our terms of reference. It was explained to them that since the Government had not controlled business other than the Government fire insurance it could not be classified as a control measure introduced by the Government. The Government, as an owner of certain property, had every right to select its own company and if they have done that in the matter of fire insurance of their buildings and property this would not come within the scope of controls. It was further explained to them that may be that the Government having considered their grievance have renewed the contract with the New India Assurance Co. only for a year which was going to expire by the end of 1953.

II. Certain complaints against individuals pertaining to the Revenue Department in connection with the implementation of land reforms were made before the Committee and as the Committee was not dealing with individual cases these complaints, if made in writing, were passed on to the proper administrative authority

One complaint needs being mentioned specially in this connection, namely that of Ghulam Mohi-ud-Din Bhoru of Bandipore who made some very serious allegations against some firm known as Lal Firm of Bandipore. We had heard this gentleman in detail at Bandipore in one of the public gatherings and recorded his evidence. Later on he came to Srinagar and wanted to be heard again by the Committee. On being permitted to depose whatever he had to, he read out a long petition making serious allegations against the above noted firm. As he wanted this petition to be kept on record by the Committee and as we were not examining cases against individuals or individual firms, this petition was passed on to the Government through the Chief Secretary.

III. The Chamber of Commerce, Srinagar, in their main statement given by them on the subject before inquiry referred to the Emporia run by the Government alleging that this kind of State trading was also a sort of control and should, therefore, be examined by the Committee. After perusing the supplementary memorandum submitted by the Chamber of Commerce we were of opinion that the contents of the memorandum did not fall within the purview of our inquiry and so we did not discuss this subject in our main report. But it appears that there is a general resentment among the traders in regard to the Government trading through Emporia. Knowing that Emporia are not functioning to the exclusion of the private traders we do not propose to discuss this subject at all beyond bringing this matter to the notice of the Government.

JANKI NATH WAZIR **HARNAM SINGH PATHANIA**

ALI SHAH **GHULAM AHAMAD**

APPENDICES.

APPENDIX I.

OFFICE OF THE INQUIRY COMMITTEE, JAMMU.

NOTICE.

The Inquiry Committee was set up by the Government under Cabinet Order No. 128-C dated 2nd February, 1953 to report on :—

(1) working of the Land Reforms in the Kandi area of the State ;

(2) working of the system of price and other controls prevalent in the State ;

(3) progress of rehabilitation of the displaced persons in the Jammu and Kashmir State ; and

(4) ways and means to be adopted for the rehabilitation of *ex*-servicemen of the State.

The public in general and organisations and leading persons dealing with or having special knowledge of the matters covered by the terms of reference set out above in particular are requested to send written memoranda to the Committee on these matters. To facilitate this work the questionnaire approved by the Committee is given at the close of this notice. It may, however, be pointed out that the list of questions is merely illustrative of these matters and not exhaustive and that while every endeavour should be made to furnish the information specially required in the questionnaire such other information as would assist the Committee in the discharge of its responsibilities would be greatly appreciated.

The written memoranda to be submitted to the Committee will be followed by oral examination in elucidation and amplification thereof before the Committee as far as possible. The persons submitting their memoranda will in due course be requested to appear before the Committee for such examination. If there are any persons who would assist the Committee by their oral examination without submitting memoranda they will please intimate their names to the Secretary of the Committee so that invitations for their appearance before the Committee may be issued.

The time available to the Committee for the submission of its report being limited it would be greatly appreciated if written memoranda are sent within one week from the date of the issue of this notice.

Dated Jammu,
the 3rd Phagan, 2009
14th *February*, 1953.

(Sd.) R. K. KAUL,

Secretary Inquiry Committee.

QUESTIONNAIRE.

I.— Working of Land Reforms in Kandi Area.

1. What is the approximate total area of land under cultivation in Kandi area in each Tehsil of the State ?

2. How many proprietors had more than 182 *kanals* in Kandi area in each Tehsil, before the introduction of Land Reforms ?

3. What is the total area of land in Kandi area which has been transferred from the proprietors to the tillers in each Tehsil under the Big Landed Estates Abolition Act ?

4. Is the unit of 182 *kanals* and 160 *kanals* an economic unit for Kandi areas for the landlord and tiller respectively ?

5. What is the relative productivity of land in Kandi area in comparison to the neighbouring non-Kandi lands ?

6. If you think that the above unit is not an economic unit what will you propose to be such a unit ?

7. What are your reasons for your thinking that the unit of 182 and 160 *kanals* is not an economic unit in Kandi areas and what are your reasons for the unit proposed by you ?

8. In what respects do you consider that the Land Reforms stand in need of improvement so far as the Kandi *illaqa*s of the State are concerned ?

9. Do you think that the Land Reforms have been fully implemented in the Kandi *illaqas* and have the advantages intended for the benefit of the tiller in fact accrued to him ?

10. If the reply to the preceding question be in the negative, point out the defects in the implementation of the reforms and suggest the remedial measures.

11. Do you consider the present rates of rent payable to landlords as now fixed by law equitable or otherwise in regard to lands in Kandi areas ? Give reasons in support of your answer ?

12. Do you find any procedural or other defect in the law relating to the ejectment of tenants of different categories in Kandi areas ? If so, what are these ? What would you suggest to remedy them ?

13. Is the limit to Khud-Kasht land as fixed at present equitable and economic so far as land in Kandi areas is concerned ? If not, what suggestions do you make to make it more equitable ?

14. Has the interpretation of the term Khud-Kasht caused any difficulties in actual practice to landholders in the Kandi areas ? If so, what remedies do you propose ?

II.—Working of Price and other Controls.

1. Controls were enforced in the State because the essential commodities were in short supply and it was desirable to have an equitable distribution of these at reasonable prices in the interest of the community. These were later on extended to cover (*a*) transport, including petrol, (*b*) house and shop rents, (*c*) cement, (*d*) iron and steel, (*e*) liquor etc. Do you think that the position in regard to the continuance of controls has changed ? If so, how and to what extent ? What remedies do you suggest now ?

2. Are any commodities which have been decontrolled in India still under control in the State ? If so, are there any reasons for the continuance of those controls in the State ?

3. Name the commodities which are still under control in the State. Are you in favour of the continuance or otherwise of these controls ?

4. Has there been any difficulty or defect in the method and working of the controls ? If so, what are these and how do you propose to remedy them ?

5. Do you think that the present prices of controlled commodities are high ? If so, what are the factors responsible for it and what suggestions do you make to bring down the price level ?

6. Can you give details of various overhead charges that are added on to the purchase price of cloth, sugar and salt till these reach the consumer in the cities of Jammu and Srinagar and the Muffasils of the two Provinces and Ladakh ? How far and in what ways do you think that these charges can be reduced ?

7. Do you think that the supply of goods to Co-operative Stores has affected the prices of those commodities to the disadvantage of the consumer ? If so, in what way ?

8. Do you justify the continuance of control over foodgrains in the State at present ? If not, what are your reasons and what would you porpose in the alternative ?

9. If you consider that the continuance of controls is no longer necessary, what practical suggestions would you make without impinging on the consumer with respect to each controlled item ?

10. What has been the effect of transport control including petrol rationing on private enterprise in regard to transport service and trade in general with consequent repercussions on the consumer ?

11. Do you think that in view of the changed conditions in the country it is desirable to deration petrol ?

12. Are you in favour or not of continuance of present controls over house and shop rents ? Give reasons for your reply ?

III.—Rehabilitation of Displaced Persons.

1. What was the number of displaced families in Jammu, Kashmir, Poonch and Ladakh to be rehabilitated ? How many of them have so far been rehabilitated, and what is the balance to be rehabilitated in these areas respectively ?

2. How many displaced persons have been rehabilitated in different parts of the State ? Give figures with particulars regarding displaced personal original home, where rehabilitated and how ?

3. How many displaced persons have been rehabilitated, and how many with land or money or both ?

4. Have any loans been granted, commercial or otherwise ? What conditions have been attached to such loans ? Has the grant of loans been adequate enough to fix up the grantees in some occupation ? If so, to what extent ?

5. Have the concessions, cash loans, free timber etc. etc., granted been properly utilized by the grantees for *bona fide* purposes and how far have these helped in their rehabilitation and settlement in an occupation ? Give facts and figures and state what steps the Government authorities took in ensuring that such concessions were duly utilized for the purpose for which they were granted ?

6. Have the lands allotted to the displaced persons for rehabilitation been granted to them subject to any condition ? If so, what ?

7. Have any displaced persons colonies or settlements been established ? If so, where and how? Give particulars in the matter of families and the total number of persons settled, land or other concessions granted and subsidies or loans advanced ?

8. Have displaced persons been given any special concession in the matter of education in the State ? If so, particulars may be given.

9. What expenditure has been incurred by the Government (State or India) on the rehabilitation of displaced persons in the years Samvat 2005, 2006, 2007, 2008 and first six months of 2009 ? What scheme is in contemplation under the Five-Year-Plan of the State ?

10. What would you consider to be the grievances of the displaced persons in general which require immediate attention ? Are there any special grievances of displaced persons from any particular area of the State ? What practical suggestions would you make to remove all the grievances ?

IV.—Ways and Means for Rehabilitation of Ex-servicemen.

1. What have been the causes of unsettlement of *ex*-servicemen ? Have these been economic, social or political ?

2. Which areas of the State are inhabited by the *ex*-servicemen ? Give figures district-wise of *ex*-servicemen retired before 1948 and thereafter ?

3. For *ex*-servicemen retired before the end of December, 1947, if their unsettlement has been due to economic pressure or otherwise what remedies do you suggest for their proper settlement ?

4. What are the causes of unsettlement of the *ex*-servicemen of the Army retired or demobed in 1948 and thereafter and what remedies do you suggest for their rehabilitation ?

5. What privileges, conveniences and amenities did these *ex*-servicemen enjoy after their discharge from active service or retirement from the Army in the State or India ? Have these privileges, conveniences and amenities been affected in any way ? If so, give particulars and suggest remedies.

6. What measures would you suggest for providing occupations, service or otherwise for these *ex*-servicemen in their own district, in their own Province or the State as a whole and what possibie schemes would be practicable ?

7. What avenues can be made available for *ex*-servicemen under the Five-Year-Planning which would permanently or to a large extent solve their unemployment problem ?

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APPENDIX II.

Jammu Province.

Names of the Witnesses whose statements were recorded.

Ranbirsinghpura.

1. Retired Captain Sardar Sunder Singh*.
2. Bhagat Chajju Ram*.
3. Mr. Shanker Dass*.
4. Mr. Kashir Ram, President, National Conference, Miran Sahib.
5. Lala Satyapal Gupta*.
6. Captain Maghar Singh*.
7. Mahasha Nahar Singh.
8. Th. Ganesh Singh*.
9. Sardar Ravil Singh*.
10. Sardar Rughbir Singh.
11. Sardar Gian Singh.

Jammu.

1. Sardar Nikka Singh, Secretary, Transport Owners' Association.
2. Bhagat Roopchand, Vakil.
3. Mehta Kirpa Ram.*
4. Mr. Krishen Dev Sethi.
5. Mr. Prem Nath Chopra.
6. Shrimati Ishardevi, M.L.A.*
7. Mr. Ram Lal Gandotra Secretary Transport Operator's Union.*
8. Raizada Arjan Dass.
9. Sardar Kulbir Singh*.
10. Th. Ajit Singh.
11. Lt.-Col. Khajur Singh.*
12. R. B. Anant Ram.
13. Brig. Udeychand.*
14. Rao Sahib Bindraban.*
15. Mr. Lok Nath Sharma.
16. Pt. Dina Nath, Advocate.
17. Raizada Amarchand, Advocate.*
18. Anant Ram Esqr., Retired Additional District Magistrate.
19. Kotwal Tej Ram.

*Submitted Memorandum.

REASI.

1. Mr. Bhagat Ram, M.L.A.
2. Mr. Ayub Khan, M.C.A.*
3. Lala Tej Ram, Vakil.
4. Manka Maheshwar Nath*.
5. Amroo, Numberdar.
6. Mr. Bansi Lal Kohistani*.
7. Wazir Krishen Singh.
8. Mr. Nanak Chand.
9. Mr. Gulam Rasool.
10. Mr. Kripa Ram, Zaildar.
11. Mr. Mansukh Rai.
12. Mr. Sukh Raj.
13. Mr. Guranditta.

JHORIAN.

1. Pt. Gooni Ram.
2. Mr. Bolu Singh.
3. Mr. Shiv Ram.
4. Sardar Ranjha Singh.
5. Sardar Harmandhar Singh.
6. Bhagat Shiv Ram.

AKHNOOR.

1. Mr. Des Raj.*
2. Mr. Ishar Dass.*
3. Mr. Anant Ram Bhagat.*
4. Mr. Bhag Singh.*
5. Pt. Nand Lal.
6. Lala Bheka Ram.
7. Mr. Shiv Ram.
8. Sub. Amar Singh.*

UDHAMPUR.

1. Vice-President, Soldiers' Board.*
2. Mr. Vishwa Bhandu Gupta.*
3. Mr. Sansar Chand Gupta.*
4. Mr. Mast Ram of Mazdoor Sabha.*

*Submitted Memorandum.

UDHAMPUR.—(*concluded*).

5. Mr. Chandu Lal.
6. Sardar Hukam Singh.*
7. Mr. Ram Nath Kohili.
8. Col. Abdul Rahman Khan.
9. Mr. Ganga Nath.

RAMNAGAR.

1. Pt. Kameshwar Nath, Pleader.*
2. Sardar Shamsher Singh.*
3. President, Beopar Mandal.
4. Th. Krishen Dev.*
5. Mr. Kashmiri Lal.*
6. Bawa Keshwa Singh.

BHADARWAH.

1. Bhagat Mani Karan.
2. Bhagat Ram Saran.
3. Mr. Jiwan Lal.
4. Mr. Shiv Lal Kotwal.*
5. Mr. Devi Dayal.
6. Mr. Harbans Lal, Vakil.*

DODA.

1. Th. Ram Singh.*
2. Gulam Mohd. Sheikh.*
3. Bhagat Ram Aryan.*
4. Mr. Gulam Rasool.
5. Sardar Narayan Singh.
6. Mr. Mangat Ram.
7. Mr. Gulam Mohd., M. C. A.*
8. Sardar Tara Singh, Retired Subedar.
9. Mr. Jagat Ram, Petition Writer.*
10. Jai Ram, *ex*-Soldier.
11. Mr. Krishen Lal Basin.
12. Kh. Gulam Qadir.
13. Mr. Gulam Ahmad, M. L. A.
14. Sardar Sadhu Singh.
15. Mr. Dani Ram, Chenani.

*Submitted Memorandum.

BATOTE.

1. Dr. Mohan Lal, Medical Practitioner.
2. Mr. Amar Nath.
3. Mr. Bhagat Singh.
4. Mr. Dina Nath.

NOWSHERA.

1. Bakshi Kaka Ram.*
2. Mr. Nanak Chand.*
3. Sub. Najib Singh.*
4. President, Yole Refugee Camp.*
5. Lala Chuni Lal.
6. Mr. Mani Ram.
7. Sardar Prem Singh.
8. Sardar Punjab Singh.
9. Mr. Soba Ram.

RAJOURI.

1. Mr. Abdul Aziz Shal.*
2. Mr. Jamal-ud-Din Dar.*
3. Mr. Rup Lal, Advocate.*
4. Lala Bala Ram, Vakil.
5. Lala Ram Nath, Advocate.
6. Lala Jagdesh Rai.
7. Mr. Ram Lal.*
8. Jam. Jagat Ram.*

HIRANAGAR.

1. Mr. Bem Sen*.
2. Mr. Tej Ram.
3. Mr. Des Raj and others*.
4. Mr. Girdhari Lal.*
5. Mr. Gian Chand.*
6. Master Parmanand.
7. Mr. Kulbirsingh.
8. Lala Mulk Ram.

   Dr. Uttam Chand.

*Submitted Memorandum

KATHUA.

1. Mr. Mangat Ram Sharma.*
2. Mr. Bhagat Ram.
3. Th. Ajib Singh.
4. Mr. Balwant Rai.*
5. Mr. Ganpat Ram.

BASOHLI.

1. Th. Ram Saran.*
2. Mr. Ganpat Rai.
3. Mr. Amarchand.*
4. Mr. Lachmi Chand.
5. Mr. Noor Ahmad.
6. Jai Shri Ram.
7. Mr. Vasudev.
8. M/S Amar Nath Chandu Ram.

SAMBA.

1. Mr. Ishardass Panchi.
2. Mr. Des Raj.*
3. Mr. Kaka Ram.
4. Mr. Kalai Khan.
5. Mr. Atama Singh.
6. Mr. Tej Ram.*
7. Sardar Dharam Singh.
8. Sardar Ajit Singh.*
9. Pt. Gauri Datt.
10. Mr. Fateh Singh.
11. Sardar Dharv Singh.
12. Sub. Nihar Singh.
13. Lala Karam Chand Saraf.

POONCH.

1. Master Beli Ram.
2. Sub. Nanak Chand.*
3. Shri Badri Nath.
4. Mehta Raja Ram Shah.
5. Peer Jamaat Ali.*
6. Sh. Sain Dass.

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*Submitted Memorandum.

Kashmir Province.

Names of the Witnesses whose statements were recorded.

Srinagar.

1. Mr. Gulam Rasool Kaus.
2. Peer Hassam-ud-Din.*
3. Pt. Ram Narayan.
4. Kh. Ahmad Ullah Ganai.
5. Mr. Madan Lal.
6. Mr. Rugh Nath Kaul.
7. Kh. Gulam Ahmad, President, New Kashmir Cloth Dealers' Association.
8. Mr. K. A. Mantoo, Secretary, New Kashmir Cloth Dealers' Association.*
9. Wazir Feroz Chand, Retired Revenue Commissioner.
10. Sardar Mansingh.
11. Mohd. Sultan Khan.
12. Mohd. Yussuf Bazaz.
13. Pt. Anand Ram Shangloo.
14. Kh. Abdul Aziz Naqash.
15. Haji Gulam Ahmad Baba.
16. Meer Asad Ullah.
17. Mr. Gulam Rasool.
18. Kh. Gulam Hassan Khan.*
19. Mr. Gulam Ahmad.
20. Master Mohd. Maqbool.
21. Kh. G. M. Mackay.
22. Sardar Teja Singh.
23. Mr. Abdul Qadir Meer.
24. Pt. Saroop Nath.*
25. Sardar Sarmokh Singh.
26. Mr. Mohd. Ismail.
27. Mr. Gulam Ahmad Baba, Secretary, Millowners' Association.*
28. Mistri Gulam Ahmad.
29. Pt. Janki Nath.
30. Mr. Bihari Lal Batra.*
31. Mr. Gulam Mohi-ud-Din of Rent Payers' Association.*
32. Mr. Gulam Mohd., President, Property Holders' Association.*
33. Kh. Gulam Ahmad Bach.

*Submitted Memorandum.

SRINAGAR.—(*concluded*).

34. Secretary, Beopar Mandal, Srinagar.
35. Secretary, Piece Goods Traders' Association.
36. Kh. Abdul Aziz Mantoo.*
37. Mr. Gulam Ahmad, President Kashmir Chamber of Commerce.*
38. Pt. Sarvanand Raina.
39. Secretary, City Retail Dealers' Association.
40. Mr. Mohd. Sultan Khan of Control Cloth Dealers' Association.*
41. Pt. B. N. Nehru.*
42. Mr. H. N. Dar.*
43. Mr. Bala Kak Dhar.*
44. Mr. Mohamad Maqbool Shahdad.
45. Mr. D. N. Fotedar, Advocate.*
46. L. Satya Pal, Advocate.*
47. Pt. J. N. Kaul.
48. Mr. J. N. Safaya.*
49. Pt. Janki Nath Bhan on behalf of Kashmiri Pandits Socio Religious Conference.*
50. Syed Ali Shah, Retired Tehsildar.
51. Mr. Gulam Mohd.
52. Pt. J. L. Raina.*
53. Syed Mohamad Amin Andrabi
54. Khwaja Noor Shah.

URI.

1. Raja Abdul Aziz Khan.
2. Mr. Atta Mohd. Khan.
3. Mr. Abdul Gani.
4. Mr. Habib Bhat.
5. Mr. Ali Mohd.
6. Mr. Abdul Rahman.
7. Sardar Faqir Singh.

BARAMULLA.

1. Mr. Munnawar Lone.
2. Mr. Dilawar Beg.
3. Sardar Kartar Singh.
4. Gulam Nabi Kanru, Shopkeeper.
5. Mr. Madan Lal, Shopkeeper.
6. Mr. Gulam Nabi.
7. Mr. Vahab Dar son of Khalil Dar.

*Submitted Memorandum.

BARAMULLA. —(*concluded*).

8. Mr. Sona Mir son of Fateh Mir.
9. Mohd. Dar son of Lassi Dar.
10. Sardar Pratap Singh.
11. Kh. Ahmad Mir.
12. Sardar Tara Singh.
13. Sardar Ranjit Singh.
14. Mr. Abdul Rahim.
15. Mr. Gulam Mohi-ud-Din.
16. Sardar Raghu Singh.
17. Mr. Abdul Aziz Mir.

HANDWARA.

1. Pt. Samsar Chand.
2. Mr. Gulam Mohi-ud-Din.
3. Mr. Jabbar Dar.
4. Mr. Razak Bhat.
5. Sardar Sujan Singh.*
6. Kh. Khazir Bhat.
7. Mr. Sarfaraz Malik.
8. Mr. Abdul Gani Mir.
9. Mr. Habib Malik.
10. Kh. Khaliq Malik.
11. Mr. Mohd. Yussuf.
12. Mr. Jabbar Shah.
13. Mr. Rahman Teetru.
14. Kh. Amir Yato.
15. Mr. Samad Lone.

SOPORE.

1. Sardar Niranjan Singh.
2. Kh. Noor Mohd.
3. Mr. Lassi Wani.
4. Mr. Mukhtar Baba.
5. Haji Khalil Joo.
6. Mr. Sukhdev.
7. Kh. Gani Joo Bala.
8. Kh. Abdul Kabir of Handola Club.

*Submitted Memorandum.

SOPORE.—(*concluded*).

9. Sardar Bajsingh.
10. Raja Sher Ali Khan.
11. Mr. Gulam Qadir Shah.
12. Kh. Najaf Din.

GANDERBAL.

1. Soofi Mohi-ud-Din.
2. Kh. Salam Sheikh.
3. Mr. Mohd. Sultan.
4. Mr. Vali Meer.

BANDIPORE.

1. Mr. Gulam Mohd. Malik.
2. Pt. Gulab Ram.
3. Kh. Ahmad Khan.
4. Kh. Gulam Mohi-ud-Din, Bhoni.
5. Mr. Mukta Ahmad.
6. Kh. Gulam Nabi Mir.
7. Mr. Yussuf Jan.

ANANTNAG.

1. Mr. Sula Khande.
2. Mr. Sona Lone.
3. Mr. Gulam Mohd. Cochak.
4. Mukta Sahib.
5. Mr. Gula Mir.
6. Lala Chuni Lal.
7. Mr. Gulam Hassan Qadri.
8. Kh. Abdul Gani Want.
9. Mr. Habib Ullah Khan.
10. Mr. Gulam Nabi Bhat.
11. Pt. Jia Lal Raina.
12. Mr. Ramzan Naik.
13. Kh. Salam Sheikh.
14. Mr. Abdul Ahad Dar.
15. Mr. Abdul Rahman Dar.
16. Pt. Tara Chand.

ANANTNAG —(*concluded*).

17. Mr. Mohd. Shaban.
18. Kh. Mohd. Bhat.
19. Mr. Abdul Gani Wani.
20. Mr. Khazir Mohd.

SHOPIAN.

1. Pt. Shambu Nath.
2. Pt. Srikanth.
3. Pt. Krishen Gopal.
4. Kh. Amir Joo Tak.
5. Mr. Abdul Aziz.
6. Mr. Lassi Laway.
7. Master Ramchand.
8. Kh. Gani Joo Langoo.
9. Mr. Gulam Qadir Paray.
10. Mr. Brij Lal.
11. Sardar Govind Singh.
12. Mr. Gulam Hassan Malik.

PULWAMA.

1. Pt. Radha Krishen Ganjoo.
2. Kh. Habib Ullah Malik.
3. Mr. Abdul Rahim.
4. Mr. Mohd. Anwar.
5. Kh. Wali Malik.

KULGAM.

1. Mr. Gulam Qadir Lone.
2. Mr. Samad Malik.
3. Pt. Kesho Nath.
4. Kh. Gulam Rasool Mir.
5. Mr. Vali Dar.*
6. Mr. Gulam Ahmad Lone.
7. Raja Mohd.
8. Mr. Ali Mohd.
9. Pt. Amar Nath.
10. Pt. Omkar Nath.
11. Mr. Gulam Ahmad Soofi.
12. Mr. Gulam Hassan Reshi.

*Submitted Memorandum.

QAZIGUND.

1. Mr. Gulam Mohi-ud-Din.*
2. Pt. Shiv Jee Kaul.
3. Mr. Gulam Mohi-ud-Din War.*
4. Mr. Gulam Mohd.
5. Sardar Rughnath Singh.*
6. Mr. Abdul Ahad Ganai.
7. Pt. Rugh Nath.
8. Mr. Abdul Aziz.
9. Mr. Abdul Rahman Dar.
10. Pt. Soom Nath.*

BADGAM.

1. Pt. Damodhar Bhat, Vakil.
2. Mr. Mohd. Ayub Khan.
3. Mr. Abdul Rahman Mir.
4. Kh. Mohd. Shaban.
5. Kh. Khaliq Peer.
6. Mr. Sidiq Lone.
7. Mr. Abdul Rahman.
8. Mr. Sultan Bhat.
9. Pt. Kashi Nath Kaul, Petition Writer.*
10. Sardar Baghwant Singh.*
11. Kh. Ramzan Dar.
12. Mr. Gaffar Ayyangar.
13. Mr. Gulam Mohi-ud-Din Farooqi.
14. Pt. Janki Nath.
15. Mr. Gulam Ahmad Ganai.

KANGAN.

1. Kh. Kamal Mir.
2. Haji Gulam Mohd.*
3. Mr. Gulam Mohd.
4. Mr. Shamas-ud-Din Kapra.
5. Kh. Haidar Shah.
6. Mr.Abdul Aziz Magray.
7. Mr. Lassa Sheikh.
8. Mr. Sadiq son of Subhana.

* Submitted Memorandum.

HARIGANWAN.

1. Mr. Gulam Mohd. Magrai.
2. Mr. Lala Magrai.
3. Kh. Habib Ganai.
4. Mr. Abdul Gani.
5. Mian Bashir Ahmad.*
6. Mr. Gulam Ahmad Mir.
7. Mohd. Sultan Rather.

GUND.

1. Pt. Soom Nath.
2. Mr. Mohd. Ganai.

VERINAG.

1. Mr. Gulam Mohi-ud-Din and others.

DURU-SHAHABAD.

1. Kh. Mohd. Yussuf Qureshi.
2. Kh. Gulam Ahmad Wani.
3. Mr. Gulam Rasool Bhat.
4. Kh. Khaliq Joo.

GULMARG—TANGMARG.

1. Kh. Abdullah Mir.
2. Mr. Gulam Ahmad.
3. Mr. Abdul Ahad Ganai.
4. Mr. Fateh Mir.
5. Mr. Lassi Dar.
6. Mr. Qadir Beg.

LOLAB (TREHGAM, PUNZGAM, CHOKIBAL, SOGAM).

1. Mr. Abdul Samd Ganai.
2. Mr. Gulam Nabi.
3. Mr. Ramzan Lone.
4. Kh. Khaliq Naki.
5. Mr. Gaffar Bhat.
6. Kh. Shamas-ud-Din.
7. Mr. Lassi Ganai.
8. Mr. Khaliq Lone.
9. Mr. Gaffar Mir.
10. Mir Gulam Mohi-ud-Din.

* Submitted Memorandum.

LOLAB (TREHGAM, PUNZGAM, CHOKIBAL).—(*concluded*).

11. Mr. Lassi Wani.*
12. Mr. Mohd. Lone.
13. Mr. Abdul Sattar Soofi.
14. Mr. Abdul Rahman Bhat.
15. Kh. Khaliq Mir.
16. Mr. Abli Wani.
17. Mr. Mukhta Sheikh.
18. Mr. Jamal Lone.
19. Mr. Gaffar Lone.
20. Mr. Sona Lone.
21. Kh. Ahmad Mir.
22. Mr. Rahman Dar.
23. Mr. Gulam Mohd. Dar.
24. Mirza Meer.
25. Kh. Gulam Mohd. Mir.
26. Mr. Abdul Aziz Lone.
27. Kh. Abdullah Lone.
28. Mr. Abdul Jabbar.
29. Mr. Abdul Kabir.
30. Mr. Abdul Ahad Bhat.

TRAL.

1. Kh. Asad Ullah Mir.
2. Sardar Amar Singh.
3. Sardar Gurbaksh Singh.
4. Mr. Gulam Nabi Mir.
5. Mirza Abdul Aziz.
6. Mr. Khaliq Bhat.
7. Mr. Gulam Mohd. Mir.
8. Mr. Ali Mohd. Naik.
9. Sardar Baldev Singh.
10. Mr. Lassi Mir.
11. Mr. Ramzan Mir.
12. Kh. Mohd. Shah.
13. Kh. Rasool Bhat.
14. Mr. Satar Naik.
15. Sardar Kartar Singh.

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*Submitted Memorundum.

Ladakh District.

Names of the Witnesses whose statements were recorded.

Ladakh.

1. Mr. Satobdan, Secretary, National Conference, Ladakh.*
2. Mr. Skilzang Rinjen.
3. Mr. Gulam Mohi-ud-Din, Petition Writer.
4. None Munshi Chattan Ponchuk.
5. Kh. Tuniat Shah.
6. Kalon Chiwang Ragzon.*
7. Mr. Tashi Tandug.*

Kargil Tehsil.

1. Aga Syed Ibrahim Shah, M. L. A.*
2. Mr. Gulam Hassan.*
3. Kachoo Mohd. Akbar Khan.

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*Submitted Memorandum.

Names of the Government Officers whose statements were recorded at Jammu.

1. Pt. Ramchander Raina, Land Reforms Officer.*
2. Col. B. S. Samyal, Director General, Food and Supplies (On Price Control).*
3. L. Durga Dass, Deputy Registrar, Co-operatives, Jammu.*
4. Kanwar Nirandar Singh, Deputy Commissioner, Jammu.
5. Mr. T. C. Wazir, Director Industries.*
6. Sardar Mahindar Singh, Inspctor of Schools, Jammu.*
7. Begam Zaffar Ali, Chief Inspectress.
8. Qazi Nizam-ud-Din, Additional District Magistrate, Jammu.*
9. Mr. Ram Lal Gupta, Finance Secretary.
10. Pt. Balbhadar Taplu, Assistant Accounts Officer (Commercial).
11. Col. Baldev Singh Samyal, Director General, Food and Supplies. (On Food Control).
12. Pt Srikanth Raina Esqr., Transport Controller.*
13. Mr. Meer Qasim, Chief Parliamentary Secretary.
14. Mr. Gulam Hassan Khan, Chief Engineer, Planning.
15. Mr. Panna Lal, Deputy Director of Education.
16. Mr. G. M. Bhat, Director of Agriculture.*
17. Dr. J. N. Bhan, Professor G. M. College, Jammu.

Names of the Government Officers whose statements were recorded at Srinagar.

1. Mr. Abdul Rashid, Deputy Director, Industries.
2. Mr. J. L. Saraf, Controller of Supplies.*
3. Mr. Durga Dass, Registrar, Co-operatives.*
4. Kh. Mohd. Amin, Direcror Food Control, Srinagar.*
5. Kh. Abdul Kadir, Additional District Magistrate, Srinagar.*
6. Mr. P. C. Rao, General Manager, J. & K. Bank, Srinagar.
7. Kh. Gulam Nabi, Deputy Commissioner, Srinagar.
8. Mirza Kamal-ud-Din, President, Srinagar Municipality.*
9. Kh. Gulam Ahmad Ashai, Registrar, J. & K. University.
10. Col. Baldev Singh Samyal, Provincial Rehabilitation Officer, Jammu.*
11. Pt. Kashyup Bandhu Ji, Provincial Rehabilitation Officer, Srinagar.*
12. Pt. R. N. Koul, Deputy Registrar, Co-opratives.
13. Mr. Dilbag Rai, Chartered Accountant.

Names of the Government Officers who sent their Memoranda.

1. Mr. Habib-Ullah Kamili, Development Secretary.
2. Mr. A. Fazili, Revenue Secretary.

31. * Submitted Memorandum.

Jammu Province.

Names of the persons who submitted their Memoranda

Ranbirsinghpura.

1. Mr. Bishendass, Vakil.
2. Mr. Anant Ram Gupta.
3. Mr. Gula Shagoo etc.
4. Mr. Gauri Shanker, etc.
5. Mr. Ram Sahai Gupta.
6. Mahasahi Dharam Pal.
7. Mr. Ram Chand of Harijan Mandal.
8. Sardar Basakha Singh.

Reasi.

1. Mr. Shanker Dass and others.
2. M. L. A. Reasi.
3. M/S. Gulab Din, Din Mohd.

Akhnoor.

1. Mr. Lahru Ram and others.
2. Jam. Amar Singh.
3. M/S Fateh Chand, Kaku Ram.
4. Sardar Chag Singh.
5. Sardar Ishar Singh.
6. Mr. Singharo.
7. Mr. Nanak Raj Bali.
8. Mr. Baghwandass.
9. Sardar Munshi Singh.
10. Mr. Devi Ram.
11. Mr. Anant Ram etc.
12. Sardar Thakur Singh.
13. Inhabitants of village Chab.
14. Mr. Basant Ram.

Udhampur.

1. Mr. Jagat Ram Rajput.
2. Mr. Kansu and others.

UDHAMPUR.— (*concluded*).

3. Maliq Mohd. Abdullah.
4. Sardar Sher Singh.
5. Mr. Anant Ram Sharma.
6. Sant Ram and others.
7. Mr. Birbal.
8. Sardar Harbans Singh.
9. Comrade Dharam Pal.
10. Mahasha Mangat Ram.
11. Th. Dharam Singh.
12. Bhagat Gopi Chand.
13. Th. Shiv Dass.
14. Gridhari Lal, Zaildar.
15. Mohd. Ashraf Khan.
16. Mr. Rup Chand.
17. Jt. Secretary, Tehsil National Conference, Sundemini.
18. Sardar Allah Ditta Khan.
19. Pt. Triloki Nath Baisan.
20. Mr. Om Prakash, Vakil.
21. Mr. Rakhi Ram.
22. Mr. Kamdar Shah.
23. Mr. Daya Ram.
24. Mr. D. N. Gupta.
25. Mr. Kripa Ram, Pensioner.
26. Raja Sahib of Chenani.
27. Mahasha Dina Nath.
28. Mr. Yogin Lal Nath.
29. Mr. Ishardass Dogra.
30. Mr. Hari Ram Sharma.

RAMNAGAR.

1. Mr. Kundan Lal Dina Nath.
2. Mr. Nizam Din, Milkman.
3. Amar Nath, Retired Police man.
4. M/S. Amar Nath Chander Pran.

RAMNAGAR.—(*concluded*).

5. Sardar Uttam Singh, Retired Naib-Tehsildar.
6. Th. Prabhat Singh.
7. Th. Kam Singh.
8. Mr. Kripa Ram.

BADHARWAH.

1. Mohd. Assad Ullah etc.
2. Bhagat Thakur Dass.
3. Mr. Habib Ullah, Vice-President, Anjuman Islamia.
4. Mr. Shamas-ud-Din.
5. Mr. Manga Qureshi.
6. Mr. Ibrahim Gojar.
7. Mr. Abdullah and others.
8. Soba Gojar.
9. Sarpanch, Panchayat, Ramkote.
10. Bhagat Ram Aryan.

DODA.

1. Ch. Shiv Ram.
2. Lala Charan Dass.
3. Mr. Beli Ram, Numberdar.
4. Halqa President, National Conference.
5. Pt. Dina Nath.

NOWSHERA.

1. President Kisan Sabha.
2. Lala Chuni Lal.
3. Bhagat Ram Sharma.
4. Shopkeepers.
5. Refugees.
6. Ex-Servicemen.

JHORIAN.

1. Mr. Dharam Chand Rep. Harijan.
2. Shika Ram and others.
3. Anant Ram and others.

RAJOURI.

1. Mr. Gulab Din.
2. Sardar Harbans Singh.
3. Sardar Singh.
4. Mr. Syed Mohd.
5. Pt. Ram Chand, President, Refugee Committee.
6. M/S. Abdul Aziz, Abdul Hamid.
7. Mr. Salam Mohd.
8. Mr. Abdul Rashid.
9. President, National Conference, Garni.
10. Mr. Mani Ram Shah.
11. Mr. Tota Ram and Jagan Nath.
12. Mr. Kaka Khan and others.

POONCH.

1. Mehta Gopi Chand.
2. Mr. Allah Ditta Khan.
3. Mr. Abdullah Sheikh.
4. Refugee Committee, Mendhar.
5. Shrimati Chattar Devi.
6. Sardar Pritam Singh.
7. Zamindars of Illaqa Mandi.
8. Residents of Tehsil Haveli.
9. Hav. Karam Hussain.
10. Soma Ram.
11. Master Gulam Mohd., M.C.A.

HIRANAGAR.

1. M/S. Jowhar Singh, Mansingh.
2. Mr. Gian Singh.
3. Mr. Laik Ram, Patwari.
4. Mr. Mukhtar Singh.
5. Mr. Sita Ram.
6. Sardar Harbajan Singh.
7. Mr. Gauri.
8. Mr. Munshi Ram and others.
9. Mr. Devidass.

KATHUA.

1. Balbir Singh Gati.
2. Rakha son of Bhagtu.
3. Mr. Ram Chand.
4. Mr. Jawahir Singh, Numberdar.
5. Mr. Ramditta Chaudri.
6. Mr. Recela Ram.
7. Sarpanch, Panchayat Hatli.
8. Achardass.

BASOHLI.

1. Mr. Gopal Dass.
2. Mr. Ram Lal.
3. Mr. Tara Chand and others.
4. Mr. Lachmi Chand Shastri.
5. Mr. Kartar Singh Refugee.

SAMBA.

1. Residents of Village Ratnal.
2. Nikka Ram, Amar Nath.
3. Bandhu and Sabidhu etc.
4. Ram Chand, President Tehsil National Conference.
5. M/S Sewar Singh, Ram Singh.
6. Bhagat Ram.
7. Members of Bar Association.
8. Besia son of Josa.
9. Mr. Tej Ram.
10. Mr. Babu Ram.

JAMMU.

1. Mr. Paras Ram Oswal.
2. Mr. Piara Singh Musafir.
3. Mr. Gian Chand.
4. President, City National Conference.
5. Sardar Reshi Singh.
6. Sardar Attar Singh.
7. Sardar Kashmir Singh.

JAMMU.—(*concluded*).

8. Sardar Lachman Singh, Jam.
9. Mr. Tara Singh Shant.
10. Th. Shamsher Singh, Retired Vakil.
11. M S Karam Chand Gopi Chand.
12. Delegate National Conference, Khadi.
13. Mr. Sita Ram, Contractor, Purani Mandi.
14. Mr. Bishembardass, Bookseller.
15. Mr. Indersen Dogra, Seed Farm.
16. Mr. Hira Singh, Retired Wazir Wazarat.
17. Mr. Krishen Datt Raina, Advocate.
18. Sardar Tara Singh.
19. Mr. H. L. Gupta, Principal Model Academy.
20. Mr. Mani Ram.
21. Sardar Sadhu Singh.

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Kashmir Province.

Names of the persons who submitted the Memoranda.

Srinagar.

1. Mr. G. A. Mukhtar.
2. Haji Azem Baba.
3. Mr. P. N. Chakku.
4. Mr. Shiv Jee, Acting Secretary, Bohra Youngmans' Association.
5. Pr. Anand Ram Shangloo.
6. Mr. J. N. Dhar, M. O. Badgam.
7. Mr. Ali Mohd.
8. Carders Association, Srinagar.

Uri.

1. Mr. Habib Joo and others.
2. Mr. Gulam Qadir and others.
3. Mr. Rajoli and others.

Baramulla.

1. Mr. Ama Lone.
2. Kh. G. M. Shah.
3. Mr. Rahman Najar.
4. Mr. Gulam Jelani.
5. Mr. Abdul Hamid.
6. Sarpanch, Panchayat Halqa Palapora.
7. Mr. Gulam Rasool S/P Halqa Yole.
8. Sarpanch, Panchayat, Auntru.
9. Pt. Badri Nath Raina.
10. Mr. Habib Ullah Katoo.

Handwara.

1. Mr. Sultan Mir.
2. Mr. Sultan Mir.
3. Pt. Shamboo Nath Kaul and others.
4. Mr. Vali Mohd, Dar.

HANDWARA.— (*concluded*).

5. Mr. Khazir Mohd., Member Panchayat
6. Mr. Afzal Khan and others.
7. Mr. Abdul Ahad.
8. Mr. Kadir Rather and others.
9. Shëikh Mohd. Maqbool.
10. Mr. Habib Ullah.

SOPORE.

1. Mr. Abdullah Sheikh and others.
2. Mr. Mohd. Akbar of Zainagair.
3. Mr. Lassi Bhat.
4. Mr. Khazir Bhat.
5. Raja Mohd. Hidayat Ullah Khan.
6. Raja Mohd. Sikandar Khan and others.

BANDIPORE.

1. Mr. Charag Din Khan.
2. Mr. Sultan Sheikh.

ANANTNAG.

1. Mr. Abdullah.
2. Mr. Sona Lone and others.

SHOPIAN.

1. Kh. Kabir Joo.
2. Mr. Abdul Aziz Wani.
3. Mr. Jammu Illahi.
4. Mr. Ama Joo, President, National Conference.

PULWAMA.

1. Mr. Abdul Gani Bhat.
2. Mr. Ahmad Bhat.
3. Mr. Rahman Bhat.
4. Mr. Hassan Bhat.
5. Mr. Gulam Malik.
6. Mr. Abdullah Rather.
7. Mr. Sikander Malik.
8. Mr. Mohd. Bhat.

PULWAMA.—(*concluded*).

9. Mr. Ahmad Bala.
10. Mr. Kabir Dar.
11. Mr. Ram Chand Bhat and others
12. Zamindars of Dangerpora.
13. Nabir Bhat.
14. Mr. Aziz Bhat.
15. Mr. Mohd. Akbar Lone.
16. Mr. Mohd. Anwar.
17. Maulvi Syed Rasool Shah.

KULGAM.

1. Mr. Rahim Ganai and others.
2. Mr. Vahab and others.
3. Pt. Srikanth and others.
4. Mr. Ashor Maliq.
5. Mr. Abdul Rashid Zargar and others.
6. Mr. G. M. Khan.
7. Mr. Akram Bhat and others.
8. Mr. G. M. Bhat.
9. Mr. Ramzan Rather and others.
10. Mr. Aziz Lone and others.
11. Shopkeepers' Welfare Association.
12. Pt. Aftab Ram and others.
13. Mr. Abdul Aziz Bhat and others.
14. Pt. Sarvanand Razdan.
15. Pt. Para Kaul.
16. Pt. Vesha Kaul.

LOLAB.

1. Mr. G. N. Bhat.
2. Mr. Mohd. Ahsan Wani.
3. Mr. Gaffar Doomb and others.
4. Kh. Meerakh Shah.
5. Mr. Suban Khan and others.
6. Mr. Abdul Gani.
   Zamindaran Village Sodagam.

TRAL.

1. Mr. Abdul Aziz Shah.
2. Sardar Sanmokh Singh.
3. Sardar Rughnath Singh.
4. Sardar Chattar Singh.

92.

Ladakh District.

Names of the persons who submitted their Memoranda.

Ladakh.

1. Members of Gompa Association, through Kochok.
2. Wazir Abdul Karim.
3. Wazir Gulam Haidar.
4. Kh. Gulam Mohd. Vice-President, Tehsil National Conference.
5. Tashi Durjai and others.
6. Sanam Kunzam and others.

Kargil.

1. Aga Syed Mohd., Vice-President, Tehsil National Conference, Kargil.
2. Mr. Gulam Mohd., Naib Sadar, Tehsil National Conference, Kargil.
3. Mr. Habib Ullah, Chaudri Bazaar, Kargil.

APPENDIX III.

The State of Jammu and Kashmir was ruled by the Maharaja under the Constitution which was made in the year 1991. The Ruler was advised by a Council of Ministers appointed by him. There was a Legislative Assembly to frame laws. After the partiti n of India the paramountcy reverted to the Ruler and he became the full sovereign. The State of Jammu and Kashmir was attacked by the raiders from Pakistan in October, 1947. His Highness signed the Instrument of Accession and the State acceded to India in regard to the matters mentioned therein. The Indian troops were sent to Kashmir and the raiders were driven off. A portion of the State fell into the hands of Pakistan and on January 1, 1949, a Cease-fire was declared and that portion which is now called Azad Kashmir remained in the possession of Pakistan. His Highness retained the powers of Legislation under Section 5 of the Constitution Act of 1996 which reads as under :—

> " Notwithstanding anything contained in this or any other Act, all powers, legislative, executive and judicial, in relation to the State and its Government are hereby declared to be and to have always been inherent in and possessed and retained by His Highness and nothing contained in this or any other Act shall affect or be deemed to have affected the right and prerogative of His Highness to make laws, and issue proclamations, orders and ordinances by virtue of his inherent authority."

The Legislative Assembly functioned upto the invasion of the State towards the end of October, 1947, when the administration of the State was entrusted to the Head of the Administration under a Command of His Highness dated 30th October, 1947, as a measure of emergency, By his proclamation dated 5th March, 1948 corresponding to 23rd Phagan, 2004, His Highness, for the first time, declared as his policy the immediate establishment of a full democratic constitution based on adult franchise with a hereditary ruler from his dynasty as the Constitutional head of an executive responsible to the Legislature and replaced the emergency administration by a popular interim Government composed of a council of ministers who were to function as a Cabinet acting on the principle of joint responsibility. That proclamation further provided for appropriate steps being taken by the council of ministers to convene a National Assembly based upon adult suffrage, for the framing of the constitution as soon as the restoration of normal conditions was complete. By his proclamation published in the extraordinary issue of the Government Gazette dated 7th Har, 2006, His Highness delegated all his powers under the constitution to Shree Yuvraj. The Constitution Act of 1996 was amended by Act No. XVII of 2008 enacted by Shree Yuvraj and published in the Government Gazette dated 2nd Maghar, 2008 corresponding to 17th November, 1951. This Amendment Act brought the Constitution into accord with the spirit of the proclamations dated 5th March, 1948, 20th June, 1949 and 20th April,1951, and made changes in it including the repeal of Section 5 relating to inherent powers of His Highness and of Section 24 relating to reserved matters. The Act further provided that the powers of the Legislative Assembly shall, until other provision is made by or in accordance with a law made by the Constituent Assembly set up under the Proclamation dated 20th April, 1951, be exercisable by the said Constitutent Assembly. The Constituent

Assembly envisaged in His Highness' Proclamation dated 5th March, 1948, and other Proclamations was elected on the basis of adult suffrage in the autumn of 1951 and it became the Legislative Assembly of the State. The Constitution Act was further amended by the Constituent Assembly by Act No. XV of 2009 published in the Government Gazette dated 28th Katik, 2009, corresponding to 12th November, 1952, which came into force on 17th November, 1952, corresponding to 3rd Maghar, 2009. In this Act the words " Sadar-i-Riyasat " were *inter alia* substituted for the words " His Highness " wherever they occurred. Sub-section 2 of Section 4 of the Act as it stands now after the above amendment provides that "All rights, authority and jurisdiction which appertain or are incidental to the Government of the territories of the State of Jammu and Kashmir shall be exercisable by the Sadar-i-Riyasat on the advice of the council except in so far as may be otherwise provided by or under this Act and except in regard to those matters enumerated in List I in the Seventh Schedule to the Constitution of India with respect to which the Parliament of India has powers to make laws for the State." The provisions of Section 4 were substantially the same as those of Act XVII of 2008 except that, as indicated above, the words "His Highness" occurred in the latter in place of " Sadar-i-Riyasat."

2. Under the circumstances detailed in the preceding paragraph the power of promulgating Ordinances was exercised by the Head of the Administration and in his absence by the Officiating Head of the Administration from 30th October, 1947, upto the formation of the Popular Interim Government on 5th March, 1948 (23rd Phagan, 2004). Thereafter the power of enacting Laws and promulgating Ordinances was exercised by His Highness up to 7th Har, 2006 and from that date up to the setting up of the Constituent Assembly in the autumn of 1951 (2008) by Shree Yuvraj under Section 5 of the Constitution Act.

APPENDIX IV.

Big Landed Estates Abolition Act.

This Act was enacted by Shree Yuvraj and came into force on the first of Katik, 2007, when it was published in the Government Gazette. It was for the first time amended by Act No. XV of 2008 which was also enacted by Shree Yuvraj and was published in the Government Gazette dated 18th Katik, 2008. It was provided in the Amendment Act that it shall be deemed to have come into force from the date the original Act came into force. The Act was again amended by the Legislative Assembly by Act No. XXI of 2009 published in the Government Gazette dated 1st Chet, 2009. The following are the important provisions made in it :—

(1) Right of ownership held by a proprietor in land other than land mentioned in sub-section 2 of Section 4 shall extinguish and cease to vest in him from the date the Act came into force. Sub-section 2 provides that extinction of the right of ownership shall not apply to :—

(*a*) unit of land not exceeding 182 *kanals* including residential sites, *Bedzars* and *Safedzars* ;

(*b*) Kahi-Krisham areas, Araks, Kaps and such lands including those used for raising fuel or fodder as are unculturable ; and

(*c*) orchards.

Provided that the Government may dispose of lands mentioned in clause (*b*) in such manner as may be recommended by the Committee that shall be set up for the purpose.

It will be easily noticed that whereas the operative part of the section recognised the right of absolute ownership of a proprietor in respect of the land mentioned in clause (*b*), the proviso in effect took it away by vesting the Government with power of disposal over it. Power of disposal can be exercised only by an owner. The proviso authori es the Government to take away under an executive order what the statute in express terms gave.

(2) Section 5 provides that ownership rights of such lands of a proprietor of which the right of ownership is extinguished shall be transferred to the tillers of such lands to the extent of their actual possession in Kharif 2007 provided that no tenant shall, with the land so transferred and that which he already owns, possess more than 160 *kanals* is ownership right. It is further provided that nothing in Section 5 shall preclude the Government, at any time, to revise the quantum of land transferred to the tillers.

Every proprietor as such has been allowed to retain his ownership over a unit of 182 *kanals* but in the case of a tiller it has been provided that with the land transferred to him and that which he already owned he shall not possess more than 160 *kanals* in ownership rights. The tiller may be proprietor of other lands in his own rights. Suppose he owns 150 *kanals* already, he cannot get ownership right over more than 10 *kanals* under this Act, even

though he may be cultivating personally much more than that. Once he gets any land, however small, in ownership rights under this section a ceiling is placed on the extent of his proprietary rights at 160 *kanals*.

The statute has in express words allowed a tiller who may be better called tiller-proprietor to own up to 160 *kanals* but sub-section (5) of Section 5 arms the Government with the power to reduce at any time the quantum of land transferred to him. In other words the Government is empowered to revise by an executive order what the statute expressly conferred upon a tiller.

It would further appear from the above that the provision in regard to the quantum of land to be transferred to the tiller in ownership right was not considered by the Government to be final and, therefore, it was left open to revision at a later time.

(3) All lands of which the right of ownership is extinguished and which are not in the cultivating possession of, or cannot be transferred to, any tiller and lands owned by persons declared as enemy agents, which are not in the cultivating possession of, or cannot be transferred, to any tiller shall vest in the State. These lands may be utilized in such manner as the Government decide under sub-section (2) of Section 6. The Government is empowered to permit an *ex*-proprietor to retain possession of the land subject to such terms and conditions as are settled by the Revenue Minister or an officer authorised by him in this behalf. The permission to retain possession shall not create any right or title in him.

The Act has not made any special or general provision in regard to the manner in which the land vested in the State may be utilised but clause (*e*) of sub-section (2) of Section 40 empowers the Government to make rules in this behalf. There is no limit to the extent of land that may be permitted to be retained by an *ex*-proprietor.

(4) Under Section 10, if the land of which the right of ownership is extingished was mortgaged or leased by the proprietor it shall vest in the mortgagee or lessee in ownership right free from encumbrances if the mortgagee or lessee is himself the tiller. If the land is not in the personal cultivation of the mortgagee or lessee then it shall be transferred to the tiller free from all encumbrances and the encumbrances on such lands shall be shifted to the estate of which the ownership right of the proprietor is left in tact as if the same had been mortgaged or leased by the proprietor, to the mortgagee or lessee, as the case may be, to such extent and in such manner as is determined under the provisions of Sections 10-A, 10-B and 10-C.

The above provision is an exception to the general law under which the burden of mortgage attaches to and passes on with, the land mortgaged on its transfer. Here the mortgaged land is transferred free from encumbrance which is shifted to the other land of the proprietor not originally mortgaged.

(5) Under Section 14 the proprietor has been given the right to select land for his unit of 182 *kanals* within such period as may be specified in the notice to be served upon him by the Revenue Officer authorised in this behalf and on his doing so the land selected by him shall be immediately demarcated on spot. If the proprietor fails to comply with the notice, the Revenue

Officer shall himself reserve the land for the proprietor and the land so reserved shall be deemed as if it had been selected by such proprietor himself.

The Act has not specified the period within which a proprietor may select his unit of land but has left it to the discretion of the Revenue Officer concerned.

(6) Section 20 forbids the transfer of land or any interest therein by a proprietor or a tiller without the permission of the Government but this is subject to a proviso that no permission shall be granted where the holding of a self cultivating proprietor or tiller is more than 2 acres but less than 12 acres. This proviso did not exist in the original Act but was added by the Amendment Act of 2008.

Under the above section a mortgage or even a lease of land cannot be made without the permission of the Government as it would amount to transfer of an interest in land. This section prohibits transfer of any interest in land and not merely permanent alienation of land. The above prohibition applies only to a self cultivation proprietor or tiller and it will be easy for a person to circumvent the prohibition by ceasing to be self cultivating. The prohibition not being absolute can be easily made ineffective.

(7) Sections 22 and 23 which prohibited partition of holdings below 12 acres were deleted under the Amendment Act of 2008.

(8) Section 24 provides that if a proprietor or tiller to whom land has been transferred transfers land or part thereof or any interest therein in contravention of the provisions of this Act or if a tiller sublets the land transferred to him for two successive harvests his right of ownerhip in the land or part thereof shall be extinguished and it shall escheat to Government.

The prohibition against subletting of land transferred to a tiller is not absolute and can be easily circumvented and made ineffective.

(9) Section 29 of the original Act was replaced by a new section and Section 29-A was added by the Amendment Act of 2008. The combined effect of the provisions contained in these two sections is as under :—

(*a*) Under clause (*c*) of Section 9 occupancy rights inland transferred to a tiller, if held by a person other than the tiller, have been terminated but the proviso to Section 29 gives power to the Government "notwithstanding anything contained in this Act" to transfer in ownership right a part of the land of which the right of ownership is extinguished under sub-section (1) of Section 4, to occupancy tenants in such proportion as may be fixed. The Act has terminated the right of occupancy not held by a tiller and has granted ownership rights to the tiller but this proviso empowers the Government to transfer in ownership right part of such land to the occupancy tenant by an executive order and this power can be exercised "notwithstanding anything contained in this Act." The executive order of the Government will in effect amount to a repeal of the express provision of the Act itself.

(*b*) The Act has not terminated the right or interest or non-cultivating tenure holders (occupancy tenants) in respect of the land of which the right of ownership is not extinguished but Section 29-A gives power to the Government to terminate the same in such manner as may be prescribed. Here

again the Government is empowered to terminate by any executive order a right not terminated by the Act.

(c) The above provisions show that the Government had not made up its mind in regard to the rights of occupancy tenants both in the lands of which the right of ownership is extinguished and lands of which the right of ownership is not extinguished and, therefore, they made no specific provision in the Act itself but left it to be determined later on under an executive order.

(10) Section 32 of the Act provides that "no suit or other proceedings shall lie in any civil or revenue court in respect of any order or concerning any matter which is subject of any proceedings taken under Sections 4, 5, 6, 8, 10, 11, 12, 14, 26, 27 and 29 of this Act." The Land Revenue Act does not take away the right of a party to go to a civil court for adjudication of questions of title. Even in partition proceedings if any objection is made involving a question of proprietary title which has not already been determined by a competent Court the partition officer may require any party to the case to institute within three months a suit in the civil Court for the determination of such question, *vide* Section 111-A of the Land Revenue Act. Sub-section (1) of Section 93 of the Tenancy Act of 1980 also provides that if in any proceedings pending before a Revenue Court exercising original, appellate or revisional jursidiction, it appears to the Court that any question in issue is more proper for decision by a civil court the Revenue Court may require any party to institute a suit in the civil court for the purpose of obtaining a decision on the question. There are no similar provisions in the Abolition Act and an order passed by a revenue officer (not a Revenue Court) in proceeding taken under sections enumerated above even if affecting questions of title cannot be challenged in any Court, civil or revenue.

Tenancy Law.

The first step taken in this direction was the promulgation of an Ordinance No. XIII of 2004 called the Tenants (Stay of Ejectment) Ordinance published in the Government Gazette dated 11th Chet, 2004, by the Officiating Head of the Administration staying all ejectment proceedings pending or to be started or to be instituted against a tenant in any Revenue Court for a period of one year. This Ordinance was followed by the amendments of the Tenancy Act of 1980 under four Acts namely Act No. VII of 2005, Act No. I of 2007, Act No. XIII of 2007 and Act No. XX of 2009 published in Government Gazette dated 4th Maghar, 2005, 12th Baisakh, 2007, 29th Bhadon, 2007 and 1st Chet, 2009, respectively. The first Act was enacted by His Highness and the two Acts of 2007 by Shree Yuvraj. The last Act namely the Act of 2009 was enacted by the Legislative Assembly. Several sections of the Act were amended more than once under the above Acts. These amendments in the main related to protected tenancy, rate of rent and procedure for ejectment of tenants.

The effect of all these amendments may be summarised below :—

(a) *Protected Tenancy.*—(*i*) A new class of tenants called "protected tenants" was recognised. Under the Act of 2005 a tenant was to be deemed to be a protected tenant in respect of land not exceeding 17 *kanals* of Abi or 33 *kanals* of Khushki if he had held such land continuously and cultivated it personally for not less than seven months immediately preceding 4th Maghar, 2005, the date of the enforcement of that Act. The area of land in respect of

which protected tenancy could be acquired was uniform throughout the State and there was no provision for acquisition of such rights in future. In the second amendment Act namely Act No. 1 of 2007 the limitations of areas indicated above were left unchanged in the case of Kashmir Province including the Frontier Districts of Ladakh and Gilgit but they were raised to 33 *kanals* of Abi or 65 *kanals* of Khushki for Jammu Province. This Act further provided for future acquisition of such rights by continuous possession for a period of not less than six years. In other words a tenant holding land under personal cultivation continuously for seven months immediately preceding 4th Maghar, 2005, or for a period of not less than six years any time thereafter was to be deemed to be and recorded as a protected tenant in respect of 17 *kanals* of Abi or 33 *kanals* of Khushki in Kashmir Province and 33 *kanals* of Abi or 65 *kanals* of Khushki in Jammu Province.

(*ii*) Whereas other classes of tenants including occupancy tenants are liable to ejectment on the ground of a decree for arrears of rent remaining unsatisfied a protected tenant is not liable to ejectment on such a ground.

(*iii*) A protected tenant is liable to ejectment if the landlord requires land *bona fide* for cultivating it personally but this is subject to an important proviso namely that the total of the land already held by the landlord in his personal cultivation and the area of tenancy from which ejectment is sought does not exceed 17 *kanals* of Abi or 33 *kanals* of Khushki. In the case of ejectment of any other class of tenant including an occupancy tenant the limitation as to the extent of Khud-Kasht land of a landlord imposed by the above proviso does not exist. A landlord is competent to cultivate personally any area of land but if he wants the ejectment of a protected tenant on the ground that he requires land for his personal cultivation the total area of land he will be permitted to cultivate including the land from which ejectment is sought cannot exceed 17 *kanals* of Abi or 33 *kanals* of Khushki.

(*iv*) There is no limit as to the area of land a tenant may hold as a tenant-at-will, the only limit being with regard to the extent of his protected tenancy. A landlord, *i.e.* a proprietor having a tenant under him, cannot eject a protected tenant if he has 17 *kanals* of Abi or 33 *kanals* of Khushki in his Khud Kasht, otherwise there is no bar to his having any area of his land as Khud-Kasht. In actual practice a landlord will not be able to have more than this area of his own land as his Khud- Kasht.

(*v*) A proprietor of land is not debarred from taking land of other proprietors, and that too without any limit, as a tenant under them. The result is that whereas a proprietor may not be able to cultivate more than 17 *kanals* of Abi or 33 *kanals* of Khushki of his own land there is no bar to his having for cultivation any area of land from other proprietors. This situation arises from the proviso to clause (*c*) of Section 45-A.

(*vi*) The area of protected tenancy in Jammu Province is almost double that allowed in Kashmir, being 33 *kanals* of Abi or 65 *kanals* of Khushki in the former as against 17 *kanals* of Abi or 33 *kanals* of khushki in the latter. Before the first amendment of 2007 the extent of protected tenancy was equal to that of the permissible Khud-Kasht land of the landlord but when the area of protected tenancy was raised to 33 *kanals* of Abi or 65 *kanals* of Khushki for Jammu Province under the first Amendment Act of 2007 the area of the landlord's permissible Khud-Kasht land was not similarly raised.

(*vii*) In the Amendment Act of 2005, 12 categories of land enumerated in Section 15-C were exempted from the acquisition of protected tenancy. Clause IX exempted :

" Lands which have been let by a person who is in the military, naval or air service of the State or of the Indian Government or who belongs to one or more of the following classes, namely females, minors, lunatics, idiots or persons incapable of personally cultivating by reason of blindness or physical infirmity provided that in the case of a holding held jointly by more persons than one the provisions of this clause shall not apply unles all such persons are of one or more descriptions specified therein."

But under the first Amendment Act of 2007 this clause was deleted with the result that protected tenancy can be acquired in respect of lands let by persons mentioned above.

It may be added here that under clause XI lands within the cities, towns and notified areas are also exempted.

(*b*) *Rents.*—(*i*) For purposes of the rate of rent land has been divided into two classes, namely Abi and Khushki. Abi land has not been given its natural and ordinary meaning as it has been defined to mean not only "all irrigated lands" but also to include " such dry lands as grow sugar-cane wheat, maize and linseed."

The rate of rent is not only different in respect of Abi and the Khushki lands but it also varies with the size of a tenancy. When the extent of the cultivated land of any class other than *malyari* comprised in a tenancy or tenancies of one landlord or each of the co-sharing landlords is more than 100 *kanals* the maximum rate of rent payable is one-fourth of the produce in case of kind rent and one fourth of the value of the produce in case of cash rent for Abi lands as defined above and 1/3rd of the produce or value of the produce for Khushki lands. The above rate of rent is subject to a proviso that no share of fodder of a grain bearing crop as part of such rent shall be payable by the tenant in cases where the landlord does not provide him with seed implements and cattle for purposes of cultivation. In all other cases the maximum rent payable by the tenant shall not exceed one-half of the produce or value of such produce. The rates of rent mentioned above are subject to yet another proviso namely that the existing rent shall not be enhanced where such rent is less than the maximum prescribed in the foregoing provisions.

(*ii*) If the extent of tenancy or tenancies under one landlord or each of the co-sharing landlords is not more than 100 *kanals* then the maximum rent payable will be one-half but as soon as the tenancy exceeds 100 *kanals* the rent payable will be one-fourth in respect of the entire land including the first 100 *kanals*.

(*iii*) As soon as the size of the tenancy comes down to 100 *kanals* or less the rent payable will be one-half instead of 1/4th. If a landlord owning singly more than 100 *kanals* dies and is succeeded by two or more sons the extent of the ownership of each son and consequently the extent of the tenancy under each will be less than 100 *kanals* with the result that the tenants who hitherto were paying 1/4th of the produce will have now to pay one-half thereof. In other words in the event of any landlord leaving at his death more

than one successor and the extent of tenancy falling to 100 *kanals* or less as a result the higher rate of rent will be payable by the tenants.

(*c*) *Ejectments.*

(*i*) No tenant of any class, occupancy tenant, protected tenant, tenants for a fixed term and tenant-at-will is now liable to ejectment otherwise than in execution of a decree for ejectment. If a landlord desires to eject a tenant of any category he shall have to file a regular suit in a competent Revenue Court, obtain a decree which is subject to more than one appeal and then apply for execution of that decree. Under the law as it stood before the second Amendment Act of 2007 a tenant-at-will was liable to ejectment on the issue of a notice under Section 50 but as a result of the repeal of that section he is not now so liable. It may be added here that in cases under the old Section 50 the tenant had the right to contest his liability to ejectment and in the alternative to claim compensation. There were sufficient legally enforcible safeguards for a tenant in that summary procedure.

(*ii*) There is, however, one exception to this provision and it is where a decree for arrears of rent has been passed against the tenant and remains unsatisfied. In such cases ejectment can be ordered on an application by the landlord but in these cases also the Revenue Officer is required to institute an inquiry with respect to the existence of the arrear, then to call upon the tenant to pay the outstanding arrears as decreed within 30 days from the receipt of the notice and it is only if the tenant makes default even then that his ejectment can be ordered. But as stated earlier, the existence of an unsatisfied decree for arrears of rent is not a ground for ejectment of a protected tenant.

(*iii*) Even if a landlord having no Khud-Kasht land, wants land for his Khud-Kashi up to the permissible limit, he has to lodge a regular suit for ejectment.

(*iv*) Tenants of lands enumerated in Section 15-C including tenants of lands within the cities, towns and notified areas in respect of which protected tenancy cannot be acquired, cannot be ejected summarily but only in execution of a decree for ejectment.

(*d*) *Other Matters.*

(*i*) Section 85-A of the tenancy Act as added by Act No. XX of 2009 authorises the Government to confer on any person or on two or more persons sitting together as a Board all or any of the powers of a Collector or an Assistant Collector of either class under the Act for such local limits and classes of cases as the Revenue Minister may direct.

(*ii*) The proviso to Section 86 has been replaced by a new proviso laying down that it is only in respect of the suits mentioned in Section 85 that appeals from original or appellate orders and decrees of the Collector shall lie to the High Court and not in cases of applications under Section 84.

(*iii*) Two new sub-sections (5) and (6) have been added to Section 57-A laying down that appeals from the orders of the Collector arising out of proceedings under that section shall lie to the Land Reforms Officers and

further that appeals pending on the date on which the Amendment Act comes into force shall be transferred to the Land Reforms Officer.

JANKI NATH WAZIR.

HARNAM SINGH PATHANIA.

ALI SHAH.

GHULAM AHMAD.

JAMMU AND KASHMIR GOVERNMENT.

REPORT

OF THE

INQUIRY COMMITTEE APPOINTED TO EXAMINE THE WORKING OF LAND REFORMS, PRICE CONTROL ETC-.

1953 A. D.

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INTRODUCTION.

INTERCONTINENTAL

4

INTRODUCTION.

1. The Government of Jammu and Kashmir set up an Inquiry Committee under Cabinet Order No. 128-C dated 2nd February, 1953, to report on the following matters :-

(1) working of land reforms in Kandi area of the State ;

(2) working of the system of price and other controls prevalent in the State ;

(3) progress of rehabilitation of the displaced persons in the Jammu and Kashmir State ; and

(4) ways and means to be adopted for the rehabilitation of *ex*-servicemen of the State.

2. The Committee consisted of Mr. Justice Janki Nath Wazir, Chief Justice, Thakur Harnam Singh Pathania, Chief Conservator of Forests, Kh. Ali Shah, Revenue Commissioner and Pirzada Ghulam Ahmad, Accountant General. The Chief Justice was appointed as the Chairman of the Committee and Pandit Radha Krishna Koul Sub-Judge Udhampur as its Secretary. Two months time was allowed by the Government for the submission of the report. This time-limit was subsequently extended by another two months.

3. The Committee met for the first time on the 7th of February, 1953, and decided that a questionnaire on all the four matters covered by the terms of reference be prepared and issued to Government Departments, public in general and commercial, zamindari, transport and other organizations and individuals concerned in particular. The questionnaire was accordingly prepared and issued to various bodies and individuals who were requested to send their memoranda and appear personally if they so desired for expressing their views on the matters under inquiry. The questionnaire forms Appendix I of the report.

4. The Committee decided to tour both the provinces of Jammu and Kashmir and the District of Ladakh to examine witnesses coming forward to depose in regard to the matters under inquiry. In Jammu Province the following

places were visited by the Committee and a very large number of witnesses at each place was examined :—

Ranbirsinghpura.	Batote.
Reasi	Nowshera.
Akhnur.	Rajouri.
Jeorian.	Poonch.
Udhampur.	Hiranagar.
Ramnagar.	Kathua.
Bhadarwah.	Basohli.
Doda.	Samba.

In Kashmir Province the Committee visited Baramulla, Anantnag, Uri, Handwara, Sopore, Bandipore, Shopian, Kulgam, Badgam, Sohgam, Chaukibal, Tral, Tangmarg, Gund, Qazigund, Kangan, Gandarbal, Pulwama, Desu and Pahalgam. The Committee visited Leh and went up to Hemis, 22 miles away from Leh.

5. At the headquarters representatives of different organizations and public men were examined. The officials and heads of the departments concerned with the matters under inquiry were also examined and asked to explain the official point of view besides the points which arose out of the examination of other witnesses. It was gratifying to note that the public in Muffasils and in the towns appeared in large numbers and expressed their views on the matters without any reservation. The Committee collected ample material in the form of memoranda and oral statements which was very helpful and educative for the purpose of this report. 265 persons—officials and non-officials—submitted memoranda and 459 persons made oral statements. Appendix II gives a list of these. The representatives of certain groups were examined and their views were put to others to ascertain their reaction and any one who wanted to tender evidence was allowed to do so. We have recorded our conclusions in this report on the basis of the memoranda and the oral statements.

6. The Committee could not complete its report within the time prescribed by the Government inasmuch as the subject matter covered by the terms of reference was vast and the Committee had to tour all over the State to ascertain the points of veiws of various individuals and interests belonging to various localities which took a lot of time. To finish the task entrusted to it within the prescribed time-limit the Committee had to work at high pressure

and it did so cheerfully, sparing no pains to make the inquiry as complete and thorough as possible in these circumstances.

7. It is highly gratifying that there has been perfect accord among the members of the Committee in regard to the interpretation of public opinion and the formulation of recommendations and that the report is, therefore, unanimous. The recommendations, it may be pointed out, seek to resolve all conflicting points of view in conformity with the basic policies of the State and to remedy the defects observed in the methods of carrying them out.

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WORKING OF LAND REFORMS IN KANDI AREA OF THE STATE.

WORKING OF LAND REFORMS IN THE KANDI AREA OF THE STATE.

1. In order to understand the history of land reforms introduced in the State it is necessary to describe briefly the constitutional position obtaining in the State prior to 1947 and subsequent thereto. For the sake of convenience this has been briefly referred to in Appendix III of this report.

2. The Government being committed to the land reforms, to implement their organizational objective of "land to the tiller" realised the necessity of introducing land reforms. This they did from time to time by various measures to ameliorate the lot of the peasantry. Jagirdari was abolished and soon after that the Big Landed Estates Abolition Act was passed and the Tenancy Act was amended under several Amendment Acts.

3. The first term of reference to the Committee is to report on the working of land reforms in Kandi area of the State. Before disscusing this question it is necessary to have an idea of the land reforms which have been introduced in the State. In Appendix IV of this report the relevant sections of the Tenancy Act and the Big Landed Estates Abolition Act have been referred to briefly. As this is an important appendix special attention is invited to anomalies, inconsistencies and inequities existing in these laws as shown in the Appendix.

4. *Kandi Area—Definition of.*—Coming now to the main question which has been referred to the Committee, *i. e.* working of land reforms in Kandi area of the State, it is observed that in the order appointing this Committee the term "Kandi" has not been defined and, therefore, the task of defining it for the purpose of this inquiry falls upon the Committee. The Land Reforms Officer who has had to do a great deal with the recent agrarian reforms has not, in his lengthy and detailed memorandum, given any definition of the term "Kandi". The very first question that was asked of him when he appeared before us related to the definition of the term "Kandi". The Land Reforms Officer stated that when settlement operations of a Tehsil are undertaken its territory is divided by the settlement authorities into a number of assessment circles, an assessment circle being a group of estates

sufficiently homogeneous to admit of a common set of rates being used as a general guide in calculating the demands which can fairly be imposed upon them. The assessment circles are based on factors like soil, rainfall, depth of water, climate and the character of the cultivators etc. He stressed that for the purpose of this inquiry "Kandi" should be taken to mean the region or tract which has been described as such in the assessment reports and that it would not be advisable to deviate from the definition as given by the Settlement Officers and Settlement Commissioners. From the memorandum of the Land Reforms Officer it appears that in the assessment reports there are Kandi circles in 8 Tehsils of Jammu Province, namely Kishtwar, Ramban, Reasi, Akhnur, Jammu, Samba, Jasmergarh and Bhadarwah and in 8 Tehsils of Kashmir Province, namely Anantnag, Kulgam, Awantipura, Badgam, Shahr-i-Khas, Baramulla, Handwara and Sopore. There are no Kandi circles in other Tehsils including the Tehsils of Ladakh and Kargil.

5. When settlement operations are undertaken each Tehsil is divided into certain assessment circles described by different names which need not be the same. In Shahr-i-Khas Tehsil of Kashmir Province, for exanple, there are Darmayani, Sailaba, Nambal, Kandi and Srinagar assessment circles. The Maidani tract of Jammu Tehsil for example, has Barrari, Kandi and Andarwa circles and the Kandi tract of the same Tehsil has Pahari and Kandi circles. There are certain Tehsils in Jammu Province which have Barfani circles.

6. These are geographical divisions—the villages in each assessment circle possessing certain broad characteristics common to them all. These circles are not immutable. It is not necessary that the assessment circles recognised at one settlement will not be varied at a subsequent settlement for these circles are open to revision in view of the changes that may have taken place between two settlements. There may be amalgamation or further division of previous circles or land may be transferred from one circle to another. These assessment circles are further classified into sub-divisions in view of the nature of soil, its productivity, availability of irrigation etc., etc. For example, in Shahr-i-Khas Tehsil of Kashmir Province the soil is classified as Malyari, Demb Abi ,Demb Sailaba, Abi I, Abi II, Abi III, Radh, Wari, Maidani and Labru. In Maidani and Kandi tracts of Jammu Tehsil soil is classified as Chahi, Nehri, Abi, Sailaba, Haili, Gora, Warhal I, Warhal II and Rakkar (*Thangar*). These

divisions into assessment circles and classes of soil are made in order to facilitate settlement operations and assessment. After thus classifying the soil the yield of each class of soil is ascertained and the State's share in produce determined. This share is converted into money and is called land revenue. The rate of conversion of the produce into money is governed by the prevalent market price. This is worked out by the method of averages. The term "Kandi" as such is not defined in the assessment reports.

7. In para 5 of the assessment report of Shahr-i-Khas Tehsil of Kashmir Province the following description is given : —

> " Kandi is situate at the foot of and on high hills. Fields are terraced and sloping and good soil is washed away in seasons of heavy rains and snow-fall. Pasturage is ample but crops are damaged at times by hail-storms."

Similarly on page 2 of the assessment report of the Kandi tract of Jammu Tehsil the following description of "Kandi" circle is given : —

> " As in the case of Pahari circle this tract is also traversed by a large number of nullas and *khads* which instead of serving any useful purpose do vast damage in the shape of eroding land by water action. During the course of their flow it is difficult to wade through them. When over-flooded these *khads* occasion some times loss of human life. The water, however, does not remain in these *khads* for a long time. Much trouble is felt in obtaining water for drinking purposes. Mostly people have to depend upon ponds for supply. In summer even ponds get dry and zamindars are so much occupied in making arrangements for their water-supply that they cannot afford time for any other work."

8. The Committee have considered the question as to why Kandi area was specially selected for inquiry into the working of land reforms. It appears that Kandi area was specially chosen because this area is commonly known and believed to be the most inferior one from economic point of view. This common belief is borne out by the description of it as set out above. The Land Reforms Officer himself stated that the Barfani circle in Ramban and Reasi Tehsils and the Barfani and Sarhadi circles in Kishtwar are inferior to Kandi as such. He has stated that Labru areas in Kashmir Province in most cases are worse than Kandi in Jammu. He has further mentioned that in Ladakh and Kargil Tehsils there may be areas which are inferior to Kandi area even if no Kandi assessment circle exists in these

Tehsils. There may be other areas similarly situated. There can be no dispute that land in Kargil and Ladakh Tehsils and at many places elsewhere is worse than the land in Kandi areas of both the Provinces. It may be mentioned here that at the time of settlement Jammu Tehsil was divided into two tracts, namely Maidani and Kandi tracts and separate assessment reports were written in respect of these tracts. In view of these considerations land in two frontier Tehsils—Ladakh and Kargil—and in Kandi tracts of Jammu Tehsil will fall within the purview of the Committee's inquiry regarding land reforms in Kandi areas. We are further of the view that if there are any areas or assessment circles in any Tehsil which are worse than, or as bad as, Kandi area from economic point of view they should be considered to come within the purview of the inquiry, even though they are not described as Kandi in assessment reports and that consequently the recommendations of the Committee should be taken to apply fully to them as well. The Committee's recommendations, therefore, should be taken to apply only to Kandi area as defined above and not to land in any other area.

9. *Maximum unit of* 182 *Kanals—Fixation of.*—The next important question is to find out the criterion on which the unit of 182 *kanals* and 160 *kanals* permitted to be held in ownership right by the proprietor and tiller respectively has been fixed.

10. The Land Reforms Officer has given in his memorandum statistics based on assessment reports of the Tehsils having Kandi circles regarding the average cultivated area per pair of bullocks, the average size of the proprietary and the tenant's holding, and the average cultivated area per head and per family, and stated that a holding of 182 *kanals* or 160 *kanals* should be characterised as an uneconomic holding because it was too large and could not be properly cultivated. He has further stated in his memorandum that the largest size of an economic holding proposed by the Revenue Officers did not exceed $12\frac{1}{2}$ acres. When he appeared before the Committee he was questioned about the bases on which a uniform unit of 182 *kanals* had been adopted throughout the State. His answer to the above question may be stated in his own words. He said as follows :—

> " Some where some ceiling had to be put, for without it the large number of tillers could not be benefited. The adoption of a uniform size of maximum holding for the proprietor and the tiller throughout the State was based on the consideration that in this

particular matter it was not the different soils which mattered but the technique of cultivation, the system of farming, capital and labour by which a unit of land could be developed to yield maximum production. The conclusion is that if the holding whose maximum size as laid down by the Act, is properly developed, the result would be nearly the same. It is possible to *develop Kandi area to such an extent that it will yield the same result as other areas in non-Kandi areas, even Abi land in Kashmir*. There could be no arithmetical basis for adoption of the uniform ceiling. Differentiation in classes of soil do not matter. Productivity could be increased with human effort. For that matter there would be difference in productivity from village to village.'

11. This is what the Land Reforms Officer has said in regard to the fixing of a uniform unit of 182 *kanals*. The contention of the Land Reforms Officer is that the unit of 182 *kanals* for proprietor is uneconomic because it is too large and could not be properly cultivated. His other contention is that the difference in soils and their productivity did not matter as with human effort it was possible to develop Kandi area to such an extent that it would yield the same result as other areas in non-Kandi and even Abi lands in Kashmir. That these contentions of his are fallacious on the face of them is self-evident. There can be no greater fallacy than the statement that irrigated land is as productive as unirrigated land or that Maidani land is as productive as land situate at the foot of a high hill. It is equally fallacious to assert that lands of Jammu Province and those of Ladakh district are as productive as lands of Kashmir Valley. It was not necessary for us to refer to any authority in support of these observations. It may, however, be observed that if any one were to compare even casually the provisions of Section 15-A of the Tenancy Act as first enacted in the Tenancy Amendment Act No. VII of 2005 and later on in the Tenancy Amendment Act No. I of 2007 he will not fail to notice that the Government itself on whose advice these Acts were enacted recognised firstly that one *kanal* of Abi land was equal to two *kanals* of Khushki land and secondly that one *kanal* of land in Kashmir Province was equal to two *kanals* of land in Jammu Province. Section 15-A of the Amendment Act of 2005 conferred protected tenancy rights in respect of 17 *kanals* of Abi or 33 *kanals* of Khushki land throughout the State but later on this section was replaced by Amendment Act No. I 2007 by maintaining the above limit for Kashmir Province and raising it to 33 *kanals* of Abi or 65 *kanals* of Khushki for Jammu Province. These provisions clearly show that in the judgment of the Government itself Abi land is twice as productive as Khushki land and land in Kashmir on the whole is twice as productive

as the land in Jammu Province. This is not all. The assessment reports have recognised that the extent of productivity is different not only in different assessment circles of a Tehsil but also that even in a single circle it varies from one class of soil to another class of soil. It is, therefore, clear that adopting of one uniform size of a proprietary holding throughout the State, irrespective of any consideration whatever, cannot be regarded as scientific or reasonable.

12. The Committee has tried its best to find out as to how the units of 182 *kanals* and 160 *kanals* were fixed uniformly in all parts of the State for a proprietor and a tenant respectively regardless of the nature of soil and its productivity but it has not been able to find any rational basis for fixing these units. The Land Reforms Officer, after his best efforts to explain this anomaly, had to concede that "*some where some ceiling had to be put for without it a large number of tillers could not be benefited*". He has not been able to show any reasonable ground on the basis of which the ceiling of 182 *kanals* and 160 *kanals* had been put. Mr. Mir Qasim, Member of the Assembly, who at one stage or another was associated with these reforms, admitted that adoption of these units was a sort of compromise and no rational grounds could be advanced in support of adopting uniform units throughout the State. But we think that this compromise has not satisfied the people at large. On the other hand it has created dissatisfaction and heart-burning among the people in the Kandi area. It has been represented that all the citizens being alike it was not clear why greater benefits were conferred upon people having irrigated lands in non-Kandi areas and why the same units were allotted to the people of Kandi area. Their grievance appears to be legitimate. The main grouse is that people in non-Kandi area where soil is much richer and nature more bountiful have been given 182 and 160 *kanals* and the same unit has been given in Kandi area where soil is much inferior and rain-fall is scanty and uncertain and consequently they produce very much less.

13. *Economic unit for a proprietor in Kandi.*—The question boils down to this :—

> What is an economic unit in Kandi for a proprietor and a tiller ?

It seems that this question was not resolved before the ceiling of 182 and 160 *kanals* was fixed. It is conceded that an

economic unit may be difficult to define or to determine in the absence of proper survey and statistical information. It is fundamentally dependant on the ratio between the population living on land and cultivable land available. In U.S.A. where technological development has reached a high stage and land is available in large quantities in relation to demand for it and very large farms are available for cultivation, the average size may be as high as 35 to 180 acres. The position in our country is very different. All over India there is a great pressure on land and the same is the case in our part of the country. More and more people live on land. When we talk of 182 and 160 *kanals* as the size of a holding the question will arise whether there is enough land to be distributed among the people who are hankering after it and want to make agriculture their sole source of livelihood. It will have to be further determined as to how much land in Kandi area would be enough for a tiller who has a family, say of five, to yield an income which will be sufficient to meet the barest necessaries of life like food, cloth, shelter etc. Such a holding will be considered to be convenient for a tiller.

14. In Kandi areas of Jammu Province there are mostly proprietor-tillers and the number of those whose holdings have been reduced to 182 *kanals* is not large. The Committee recognises that the fixing of a maximum holding for a proprietor was a difficult task and that at whatever point it was fixed there would necessarily be an element of arbitrariness. It also realises that if the unit were to be made an economic or subsistence unit for a proprietor it would vary not only from Tehsil to Tehsil but from village to village according to the productivity of the soil and from proprietor to proprietor according to the size of his family and the standard of living to which he was accustomed. If it were possible to arrive at such a subsistence unit even that would be variable from time to time according to the changes in circumstances. Such a state of affairs would be fraught with uncertainty which was not desirable.

15. In these circumstances the important question which arises is what should have been the ceiling units adopted by the State which would have been more rational.

16. As already observed in the preceding paragraph fixing a uniform unit for all the lands on the basis of acreage, in the opinion of the Committee, appears to be neither scientific nor rational. The more correct and scientific

solution of this knotty problem would have been the one suggested by some witnesses, one of them being an experienced Revenue Officer who rose to the highest position in the Revenue Department, R. B. Pandit Anant Ram, suggesting that the ceiling should have been adopted on the basis of land revenue instead of acreage as land revenue was assessed after taking into consideration all necessary factors including productivity. The Committee is not oblivious to the difficulty which might arise if the unit were now changed and fixed on the basis of land revenue as this will give rise to a number of difficulties which it may not be easy to surmount. Firstly the rate of land revenue varies from one class of land to another and from one circle to another ; secondly huge organization may have to be started to determine the units from place place on account of different rates of revenue obtaining in the State which will be a tedious and cumbersome task ; and thirdly the units in some places will have to be raised four-fold and it may be difficult for the State to implement these suggestions without creating great confusion and unrest among the tillers. A fair and practicable course would have been to take guidance from the criterion laid down in Section 15-A of the Tenancy Act. Taking a basic unit in terms of Abi land a larger unit of land in Kandi area should have been fixed.

17. Different suggestions have been made by different witnesses as to the size of the unit. These suggestions, putting them arithmetically, may be summarised as follows :—

(*i*) The more rational basis for fixing this unit would be to do it on the basis of productivity of the land. Taking 182 *kanals* as fixed by the Government to be a unit for Maidani circle of Kashmir of which the productivity is the maximum in the whole State, the unit for other lands especially Kandi in Kashmir and Kandi in Jammu should be fixed in the inverse proportion according to the productivity of these lands. The productivity can easily be determined from the Chakla rates as fixed in various assessment reports of various kinds of lands. A unit in Kashmir for Maidani circle has been placed at 182 *kanals*. Average productivity in the Valley per *kanal* has been fixed at one *khirwar* 8 *traks*. As against this average productivity in Kashmir Kandi is about one *khirwar*. On the basis of the preceding formula the unit in Kandi should increase by 50 per cent which in terms of land comes to 273 *kanals*. Since Government have conceded under Tenancy Act that a unit in Jammu should be double the unit in Kashmir, the area in Jammu Kandi should on this calculation be double

the area in Kashmir. Putting in terms of figures a unit of 128 *kanals* in Kashmir Maidani will come to 273 *kanals* of Kandi in Kashmir and 364 *kanals* in Jammu non-Kandi and 546 *kanals* for Kandi in Jammu.

(*ii*) Another method would be, taking 182 *kanals* as a unit both in Kashmir and Jammu Maidani areas the unit for Kashmir Kandi increased by 25 per cent would be 227 *kanals* and the unit for Jammu Kandi increased by 50 per cent would be 273 *kanals*.

(*iii*) The third method would be, taking the unit as 182 *kanals* for non-Kandi areas in Kashmir and increasing it by 25 per cent for Kandi in Kashmir which means 227 *kanals* and the productivity of Jammu non-Kandi being taken equivalent to Kandi area in Kashmir 227 *kanals* would be the unit for non-Kandi areas there. Increasing 227 *kanals* by 33 per cent the unit for Kandi areas in Jammu would be 300 *kanals*.

(*iv*) Yet another method would be to fix 182 *kanals* as an adequate unit for Kandi in Jammu area or any other land inferior to that even and the corresponding unit for other more productive lands being decreased in proportion to productivity.

After considering the above alternatives a more equitable solution of the problem would be to accept suggestion at item No. (*ii*) which fixes the ceiling at roughly 28 acres for Kandi in Kashmir and 34 acres for Kandi in Jammu as against a uniform unit of $22\frac{3}{4}$ acres now fixed. In cases where a proprietor has selected land from both Kandi and non-Kandi areas the unit should be fixed in Jammu by treating one *kanal* of non-Kandi land equal to $1\frac{1}{2}$ *kanal* in Kandi area, while in Kashmir one *kanal* of non-Kandi land should be taken equal to $1\frac{1}{4}$ *kanal* in Kandi area. If for any reasons it be not practicable to increase the size of the unit in Kandi area then the only alternative which suggests itself to the Committee is that the proprietor should be given a freer hand in regard to their unit of land.

18. *Proprietary unit for a tiller.*—Coming to the unit of proprietary holding fixed for a tiller it may be pointed out that the law has fixed no limit to the area of land that may be cultivated by a tiller whether the land is his own or that of another proprietor. The only limit imposed is in regard to the extent of land over which he can claim rights of

protected tenancy. The law has placed a limit on the extent of land he can possess as an owner namely 160 *kanals*. Every proprietor as such has been allowed to retain his ownership over a unit of 182 *kanals* but in the case of a tiller it has been provided that with the land transferred to him and that which he already owned he shall not possess more than 160 *kanals* in ownership rights. The tiller may be a proprietor of other lands in his own rights. Suppose he owns 150 *kanals* already, he cannot get ownership right over more than 10 *kanals* under this Act, even though he may be cultivating personally much more than that. Once he gets any land, however small, in ownership rights under this Act a ceiling is placed to the extent of his proprietary rights at 160 *kanals*. With regard to the land not acquired by the tiller under the Act he is under no obligation to till it himself and consequently that land can be let out by him wholly to tenants for cultivation like other proprietors. Under clause (c) of section 24 if a tiller sublets for two successive harvests land transferred to him his rights in that land would be extinguished and such land would escheat to Government. This provision would show that a tiller is required to till personally the land transferred to him but as would be clear from it this condition is not an absolute one and can be defeated by him if he so manipulates.

19. This brings us to the question of the extent of cultivating unit, namely the unit which a tiller would ordinarily be able to cultivate himself. As a tiller can retain ownership over the land transferred to him only on the ground of his cultivating it personally, the area of the land that may be transferred to him should not exceed a reasonable cultivating unit. The extent of a cultivating unit cannot be a fixed one but will vary with varying circumstances. The witnesses have suggested different sizes of a cultivating unit.

20. Under Section 15-A of the Tenancy Act 65 *kanals* of Khushki land in Jammu Province has been accepted as the maximum cultivating unit for a tenant. This appears to be a reasonable unit. It would be fair if ownership of land were transferred to a tiller to the extent of a reasonable cultivating unit and not more than that.

21. Under the present law if a tiller already holds 150 *kanals* in ownership he can get ownership rights over only 10 *kanals* more and if a tiller holds no land in ownership right he can get ownership right up to 160 *kanals*. However, once he gets any land under this Act he cannot acquire by purchase,

gift or even inheritance more than 160 *kanals* in all at any time. It does not appear fair to limit a tiller's future acquisition of ownership to 160 *kanals* when other proprietors can retain and acquire such rights up to 182 *kanals* as at present.

22. The Land Reforms Officer has given figures regarding the total area of land of which ownership has been transferred to tillers but has not got figures regarding the extent of land that has, on the average, been so transferred. Inability of the Land Reforms Officer to supply these and other figures asked for the Committee and also the evidence produced before the Committee leads it to the conclusion that no proper survey of land, tenants, proprietors holding in proprietary rights or tenancy, and tillers etc., was made in fixing various limits and units prescribed either under the Tenancy Act or under the Abolition Act. This has, to a great extent, handicapped the working of the Committee in so far as they could not arrive at definite conclusions to enable them to make specific recommendations to the Government where fixing of units etc. etc. was concerned.

23. An effort was made by the Committee to find out the number of tenants in the following groups :—

(*a*) Number of landless tillers and agricultural labour.

(*b*) Tillers holding five to ten *kanals* of land in ownership or under tenancy.

(*c*) Tillers holding ten to twenty *kanals*.

(*d*) Tillers holding twenty to thirty *kanals* or more.

This was put even to the Land Reforms Officer during the course of his evidence if he could even approximately give figures to enable the Committee to draw certain conclusions but unfortunately the Land Reforms Officer was unable to give these figures although he promised to do so when he appeared before the Committee in the month of March, 1953.

24. Witnesses almost everywhere have generally stated that the extent of land transferred under the Abolition Act was usually five to ten *kanals* and in some cases ten to twenty *kanals*. According to witnesses there was perhaps no tiller who got maximum land permitted under the law. The Land Reforms Officer having failed to give statistical information and

drawing upon our resources, namely that of the statements and memoranda submitted by various witnesses to the Committee, the general impression that one gathers is that the average holding of tillers does not perhaps exceed ten to fifteen *kanals*.

25. Considering all these matters the Committee is of the view that the first proviso to Section 5 should provide that the land in respect of which ownership rights may be transferred to a tiller together with the land already owned by him shall not exceed 65 *kanals* in Kandi area. If the tiller, as is provided at present under the first proviso to Section 5, is allowed to hold 160 *kanals* in ownership he will not be able to cultivate all this land himself and will have to employ tenant to cultivate a larger portion of the land. It is proposed that the maximum which a tiller can acquire in ownership right under the Act together with the land owned by him should not exceed 65 *kanals*. By lowering down the ceiling of the tenant from 160 to 65 *kanals* the land so released should be distributed among landless agricultural labour which consists of overwhelming majority and who clamour that they have not been benefited by the present laws because they did not happen to be the tenants of big landed estates. However, there should be no bar against such a tiller acquiring by purchase or otherwise further land in ownership right up to the limit permitted for a proprietor. In regard to his acquisition of land in future by contract or operation of law he should be placed on the same footing with other proprietors.

26. The Government have reserved the right of revising the quantum of land transferred to tillers under the Abolition Act and the Committee feel that this right, if it is to be exercised, should be exercised once for all. If they do it now, the suggestion made in the preceding paras would be implemented. For future there should be no element of uncertainty in the minds of the tillers for otherwise it would undermine production of food.

27. *Right of proprietorship over unculturable wastes* :— Whereas the operative part of sub-section (2) of Section 4 conferred absolute rights of ownership on the proprietor in respect of Kahi-Krisham areas, Araks, Kaps and such lands including those used for raising fuel and fodder as are unculturable, the proviso in effect took it away and vested it in the Government. When the Lands Reforms Officer was questioned about it he said that what was meant by this proviso was that the Government had power to appoint a committee

for making recommendations for the proper cultivation, management and preservation of the land. He conceded that the use of the word 'dispose' in the proviso was not happy. The proviso, therefore, should either be omitted or suitably modified.

28. *Escheat land and landless agricultural labour:*— There is no Tehsil having Kandi lands in which considerable area of such land has not vested in the State under Section 6 of the Abolition Act. As stated in Appendix IV Government is empowered to make rules in regard to the manner in which such lands may be utilised by Government and it is understood that rules on the subject have already been made. The *ex*-proprietor can also be permitted to retain possession of escheat land subject to such terms and conditions as are settled by the Revenue Minister or by the Officer authorised by him in this behalf. At almost every place we visited in Jammu Province the landless people complained that the lands mentioned above had not been distributed by the Revenue authorities fairly and only influential men had succeeded in getting them. They complained that landless people who belong to backward and poor class were ignored, and corruption had been rampant in implementing land reforms in different parts of the State. It was suggested that land reforms should have been implemented through a body of officials and non-officials. The Land Reforms Officer has, on the other hand, told us that in the distribution of such land priority had been given to landless tillers. According to him most of the land had been given to them. When questioned about *ex*-servicemen the Land Reforms Officer stated that preference may be given to *ex*-servicemen over landless persons in case they live in the same village and want to till the land personally.

29. It cannot be disputed that proper and equitable distribution of this land is very important and that it should be so effected that *ex*-servicemen and backward and landless classes are benefited to the largest extent. To achieve this end the Land Reforms Officer has suggested that after the Big Landed Estates Abolition Act is implemented and the extent of land vested in the State is ascertained, regional committees be set up to make allotments of such lands within a definite time. This suggestion of the Land Reforms Officer may appear to be sound in theory but the Committee has serious doubts as to whether the Government will succeed in revising the allotments so far made of the escheat land. The impression given to the Committee by the tenants generally in

their evidence was that they had for all practical purposes taken these allotments as permanent. In case committees contemplated by the Land Reforms Officer are appointed it is suggested that separate committees should be set up for each district and should include amongst others the Secretary of the District Soldiers' Board, local *ex*-servicemen and representatives of displaced persons. In making allotments of land interests of landless locals, local *ex*-servicemen and displaced persons should receive priority.

30. It may, however, be added here that it is not possible to put the whole population on land. If the land is not sufficient to be divided in a way so as to provide a living to the persons whom it is allotted, it is better to give that much land to a person as may be sufficient to provide him his living rather than to give a few *kanals* from which he may not be able to eke out his living. Village artisans who have some profession to fall back upon should be encouraged to stick to the professions they already had in hand rather than that they should hanker after land. For instance Village barbers, blacksmiths, carpenters, masons, cobblers, tailors etc. should stick to and pursue their own professions and not claim land over which there is already a great pressure. If these and other necessary steps are taken to ensure proper distribution of land some of the problems facing landless agricultural labour will be solved.

31. *Mortgages and leases.*—It has been represented to the Committee that some landlords have been hit hard by shifting of the burden of mortgage from the land transferred to the tiller to the unit of 182 *kanals* retained by the proprietors. Apparently the intention of the Government was that the land transferred to the tiller under the Abolition Act should go to him unencumbered. The provision shifting the mortgage to 182 *kanals* was made under Section 10 of the Abolition Act. While the Committee may not be inclined to suggest some relief to the proprietors in cases of mortgages that have taken place after 1st Katik, 2004, it is suggested that the Government may consider the *bona fide* cases of mortgages that have taken place prior to 1st Katik, 2004, for some relief to them.

32. *Selection of* 182 kanals *by the proprietors.*—The proprietors represented at some places that they were not served with notices for selecting lands for their unit of 182 *kanals* and, therefore, they did not select what they liked. The Land

Reforms Officer told us that some cases came to him in appeal where the proprietors had not been duly served with notices and he had set aside the selection made by the Revenue Officers in such cases.

33. On the other hand the tillers complained (*a*) that the proprietors had selected the best land for their unit of 182 *kanals* and (*b*) that some of them had actually to pay cash—in some cases as high as the cost of the land itself—to the landlords to get lands held by them excluded from the unit of 182 *kanals* selected by the landlords for themselves.

34. Regarding the first complaint no action is needed as the landlord had the right to select the best plot he liked but regarding the second the Government will be well advised if they either appoint a committee or ask the Deputy Commissioners of the Districts to examine specific cases in their respective jurisdictions and report to the Government for suitable action.

35. *Transfer of land or interest therein.*—Under Section 20 of the Act no interest in land, even as a temporary measure, can be transferred by a proprietor or tiller without the previous permission of the Government or the Revenue Minister to whom powers under this section has been delegated. The Land Reforms Officer told the Committee that the object of this section was to restrict speculation in land. The proprietors at many places have made a grievance of this restriction before the Committee. It was specifically complained that even making of wills by persons in fear of approaching death was not possible.

36. The ownership in land necessarily carries with it the absolute power of disposal over it. If there is no absolute power of disposal recognised by law the right of ownership will be a nominal one. The reason given by the Land Reforms Officer for imposing restriction on the transfer of land is not convincing. If the proprietor has been allowed to retain ownership rights over land there is no reason why he should not be able to dispose of his property as he likes. A proprietor in some cases may not consider it worth his while to retain his unit of land and may like to sell it to his tillers or may be in real need of money which he may not be able to raise without selling his land. It may happen that by the time he secures the requisite permission the transaction might fall

through. The Committee is of the view that there should be no restriction on the absolute right of a proprietor to transfer his land subject to the provisions of the Land Alienation Act.

37. The case of the tiller in regard to the land transferred to him under the Abolition Act stands on a different footing. Until Khariff 2007 he was a mere tenant and the Act conferred on him proprietary rights simply because he was personally cultivating the land at the relevant date. If he were given right to transfer such land it would defeat the very object with which it was transferred to him. If he got ownership right simply on the ground of his personal cultivation on a particular date the law should rightly insist on his retaining that qualification for a certain length of time. It would, however, be not fair to impose such a restriction on a tiller for all times. The Government may consider whether or not this disqualification, namely inability of a tiller to dispose of land transferred to him be removed after a certain period of time, to be specified by the Government.

38. *Fragmentation of land.*—Section 22 of the original Act which was deleted by the Amendment Act of 2008 prohibited partition of land if as a result thereof the size of the holding was reduced to less than 12 acres. Perhaps the one matter on which the land reform measures in other countries are unanimous is that there should be no fragmentation of land below a certain limit considered to be an economic unit. If at any time mechanised farming or collective farming is introduced it will be necessary to have larger holdings. On the other hand if fragmentation of holding is prohibited it may be necessary to provide for succession to land under the law of primogeniture which will operate harshly against a large number of members of the family for they will be thrown out of land. In that event it will be necessary to devise measures for providing subsistence to them. As has been already said in an earlier part of this report 65 *kanals* of land in Kandi is a reasonable unit for cultivation and it is suggested that fragmentation of a holding below 65 *kanals* by partition should not be allowed.

39. *Jurisdiction of Civil and Revenue Courts.*—It was contended before the Committee by certain witnesses that Section 32 barring jurisdiction of Civil and Revenue Courts to hear suits relating to matters dealt with in the Abolition Act should be repealed. The legal position of interference by the Civil Court under Section 32 of the Act has been discussed under

item No. (*c*) page 5 of Appendix IV to which a reference is invited. On principle much can be said in support of this contention as Civil rights should be subject to adjudication by Civil Courts but we do not propose the repeal of the above section solely on practical grounds. If this section were repealed there would be countless civil suits and it would perhaps be difficult to devise adequate machinery to deal with them. The result would be that almost the whole rural population would be dragged to Civil Courts and involved in protracted and costly litigation. The gain that may be had by a successful party in such litigation should be nothing compared to the expense and trouble involved. It is, however, suggested that inspection on spot by the Deputy Commissioners of Districts be made and a certain percentage of cases decided by the staff appointed for implementing the provisions of the Abolition Act be examined to ensure that its provisions are correctly followed and enforced.

40. *Tenancy Act.*—Having discussed the questions arising under the Big Landed Estates Abolition Act we now take up the questions arising under the Tenancy Act.

41. *Relations of landlords* vis-a-vis *tenants.*—Throughout the tours of the Committee there was hardly any place where it did not find the relations between the landlords and the tenants strained. Landlords were very loud in their complaints against the tenants and said that the tenants refused to pay them due rent and that they had no effective remedy to enforce payment of the same. They said that they were helpless as the ejectment of the tenants was now practically impossible. Tenants on the other hand complained that the landlords harassed them in more than one way and involved them in litigation of all sorts and that they had consequently no peace.

42. The Committee has been impressed with the fact that the recent Land Reforms in Kandi areas under the Tenancy Act and their implementation have perhaps resulted in considerable estrangement between landlords and tenants and this the Committee considers unfortunate not only for the the parties but for the country as a whole. With such an estrangement the productivity of land is bound to suffer. If our reforms fail in increasing productivity of land and establishing stable and harmonious relationship between landlord and tenant they cannot be said to have achieved their object. It is only when the entire rural population is

contented and satisfied that the country can be happy and prosperous. That there has been a prejudice in favour of the tenant and against the landlord in the reforms introduced and their implementation was but natural but the duty of seeing that the respective rights of both the landlords and the tenants as given to them under the Law as it stands are well safeguarded falls on the Government.

43. *Protected Tenancy.*—The Law relating to Protected Tenancy has been discussed at item No. (*a*) in Appendix IV. It cannot be denied that it is desirable to give a certain measure of protection to tenants and that in the larger interests of the rural population the institution of Protected Tenancy is a good one and that it should be upheld. There are, however, a number of matters which need examination and further consideration. They may be discussed as follows :—

(*a*) Clause IX of Section 15-C of the First Amendment Act of 2005 as referred to at item No. *a* (*vii*) of Appendix IV excluded certain lands mentioned therein including lands let out by persons serving in the army from protected tenancy. This clause was deleted by the First Amendment Act of 2007. When a question for restoration of the original clause IX was put to the Land Reforms Officer he stated that he had no objection to restoring it only so far as men on active military service were concerned. We are of the opinion that the original clause should be restored in its entirety as the other classes of persons mentioned therein are physically incapable of cultivating the land personally. The benefit bestowed by the operative part of the clause is practically taken away by the proviso added to it and in order to give full scope to the clause we would further suggest the deletion of the proviso.

(*b*) As a certain minimum time limit for possession over land by a tenant had to be fixed to entitle him to the rights of protected tenancy and as this could not but be arbitrary, we do not propose to disturb the time fixed by Law. A period of six years continuous possession for acquisition of such rights in future is also a reasonable period but here we would like to suggest a little change. A landlord may institute a suit for ejectment of a tenant and that suit may take a long time and then the decree passed in the suit will be subject to more than one appeal. The final decision in such a suit may take several years and it may take further time before the decree is satisfied in execution. It would be unfair and unjust if the time

spent in such litigation were allowed to be counted towards the time for acquisition of the protected tenancy. We would suggest that an explanation to the following effect be added to Section 15-A.

EXPLANATION.—The time spent in a suit for ejectment of a tenant up to its final decision and the time spent in execution of the decree obtained in the suit shall be excluded in counting the period of six years mentioned in the section.

(c) A protected tenant is not liable to ejectment on the ground of a decree for arrears of rent passed against him remaining unsatisfied but an occupancy tenant is liable to ejectment on that ground. When the Land Reforms Officer was questioned about it he took up an untenable position and stated that he would like to extend the concession given to a protected tenant in this behalf to an occupancy tenant as well and when he was asked as to what sanction there would be behind the rent decree if it was not followed by ejectment he stated that it may be followed by ejectment only if it remained unsatisfied for a period of six years.

There can be no denying the fact, and we find it in the definition of the term "tenant" as given in the Act, that the first basis of tenancy is the liability of the tenant to pay rent. If a tenant fails to pay rent as it falls due he should be considered to have forfeited his right as a tenant. The mere fact that he has left rent in arrear should be sufficient to disentitle him to any protection under law. A tenant should be given no protection under law if rent is left in arrears by him even after a decree is passed against him by a revenue court. The present position is not only anomalous but is indefensible in-equity. Under it the landlord may institute suits for arrears of rent for every year as they fall due, obtain decrees but fail to obtain satisfaction of the decrees by execution and yet remain a helpless spectator because he is unable to eject such a defaulting tenant. If this state of affairs is allowed to continue it will be foolish for a landlord to waste time and money earned from other sources on suits for arrears of rent. The Committee is of the view that the existence of an unsatisfied decree for arrears of rent should [redacted] ground for ejectment of a protected tenant in Kandi area just like an occupancy tenant.

The Committee is further of the view that in the general interest of food production and in the interest of the landless

or other tillers it is necessary that the land of proprietors who keep it fallow for two consecutive crops should be given to the landless tillers.

(*d*) *Khud-Kasht limit for a proprietor*.—One of the grounds for ejectment of a protected tenant is that the landlord requires the land *bona fide* for his personal cultivation. But this ground has been kept subject to the proviso that the total of the land already held by the landlord in his personal cultivation and the area of tenancy from which ejectment is sought does not exceed 17 *kanals* of Abi or 33 *kanals* of Khushki. A landlord may have sufficient man power in his own family and he may be able to cultivate a much larger area of land than the one prescribed above. It is suggested that a landlord should be allowed to cultivate at least 65 *kanals* in Kandi area in Jammu and proportionate area in Kashmir Kandi based on the formula enunciated earlier provided he cultivates the land himself without engaging agricultural labour.

44. As pointed out already, when the extent of protected tenancy was raised to 33 *kanals* of Abi or 65 *kanals* of Khushki in the case of Jammu Province the extent of landlord's Khud-Kasht land there was not similarly raised. The explanation of the Land Reforms Officer for this omission was that the landlord was taking to farming for the first time and further that if his "Khud-Kasht" unit was raised it would dislocate a large number of tenants. There is no force in this contention. We have no doubt in our mind that the omission to raise the extent of the "Khud-Kasht" land for the landlords in Jammu Province to 33 *kanals* of Abi or 65 *kanals* of Khushki was accidental and not intentional. While amending Section 15-A in regard to this matter the making of a necessary corresponding amendment in the proviso to clause (*c*) of Section 45-A appears to have been omitted through an oversight. There is no limit in law to the extent of land that a tenant may cultivate otherwise than as a Protected Tenant. There is likewise no prohibition to a landlord's taking land from other proprietors for cultivation under them and that too without a limit, or for cultivating any area of his own land if he has no Protected Tenant. The Committee is of the view that the limit of "Khud-Kasht" land in Jammu Kandi (with proportionate figure for Kashmir Kandi) should be raised to 65 *kanals* and, therefore, the present proviso to Section 45-A should be amended accordingly. The policy of the laws should have been to welcome and encourage cultivation of land by proprietors themselves and not to relegate them to the position

of intermediaries which is the intention of the land reforms to abolish.

45. We agree with the principle that only as much land should be held by a landlord as would be cultivated by him personally and this principle should equally apply to the tenant as well. It is suggested that a landlord should be allowed to cultivate at least 65 *kanals* in Kandi in Jammu (with proportionate figure for Kashmir Kandi) provided he cultivates the land himself without engaging agricultural labour. In fact the Committee would go a step further to make the whole position consistent with the basic idea of giving the "land to the tiller". The Government should consider the fixation of certain criteria under which no family has more land for personal cultivation which is beyond its tilling capacity and for which at present landless tillers or agricultural labour is engaged by such proprietor or tenant. While fixing such criteria the Government will certainly take into account the size of a particular family and the members of that family who are capable of working on the land. Land held by a proprietor or a tiller beyond his tilling capacity could be utilised by allotting it directly to landless tiller and agricultural labour who would become tenants in their own right and not be hired by the proprietors or fortunate tillers as at present. This is based on what has been deposed before the Committee by certain witnesses that some tillers are actually faring better than proprietors of lands at some places in so far as their tenancy holdings are much bigger than they can cultivate at present on the basis of their family strength.

46. Unfortunately this inequality has not been removed by the Big Landed Estates Abolition Act in so far as the land in excess of 182 *kanals* has been transferred not to the landless tillers or the agricultural labour but to tenants who happened to be on that land before the Abolition Act was intorduced. Moreover while transferring this land the fact that the average holding in tenancy was ten to fifteen *kanals* both in Jammu and Kashmir Provinces was practically lost sight of as otherwise people having much more than this average in tenancy should not have been allotted out of this transferred land more till the requirements of the landless tiller and the agricultural labour had been satisfied considering the pressure on land.

47. *Khud-Kasht.*—In accordance with the principle enunciated above "Khud-Kasht" shall have to be clearly

defined, if not already done, as a unit to be cultivated personally. This, however, may result in hardship in cases of proprietors or tenants who are infirms, ills, physically incapable of cultivating etc. and for these we have already proposed that clause IX of Section 15-C which has been deleted should be re-enacted to provide for all such cases.

48. *Rent.*—Coming now to the important question of rent reference may be made to item (*b*) of Appendix IV on page XL wherein the present law on the subject and its effect have been briefly stated. The fixing of one-fourth rent for Abi lands and $\frac{1}{3}$rd for Khushki lands for tenancies over 100 *kanals* and one-half for tenancies upto 100 *kanals* and below does not seem to be scientific or rational. The Committee does not find any rational ground for making an invidious distinction in regard to rate of rent by reference to the area of tenancy involved. The various suggestions that were made in regard to this question are as follows :—

(*a*) (*i*) If the rate of rent has to remain the same as at present for tenancies of 100 *kanals* and below, the rate of higher tenancies should be changed to the extent that the change affects only the excess over 100 *kanals*.

(*ii*) That the rate of rent may be fixed at one-half upto 100 *kanals*, one-third from 101 to 150 *kanals* and one-fourth from 151 to 182 *kanals* with marginal adjustments.

(*b*) That the margin of adjustment be made with a view to securing to the proprietor of over 100 *kanals* whatever he would have received for 100 *kanals* and that he may not receive any rent for the land exceeding 100 *kanals* subject to the condition that the land revenue for land above 100 *kanals* is paid by the tenant.

(*c*) The rate of rent may be made uniform for the whole holding either at one-half or at one-fourth or at any other percentage, which may be fixed uniformly for the whole holding irrespective of its size.

49. In regard to the suggestion at (*a*) it may be stated that to a casual observer it may appear equitable but after it is examined closely it will be clear that this suggestion is very complicated and difficult of implementation. It would mean that a part of the land of a proprietor will be liable to

higher rate of rent and the other part of the land to a lower rate. Under this arrangement there will be tenants under the same proprietor who will have to pay one-fourth of the produce to the proprietor and others who will have to pay one-half. Any attempt on the part of the proprietor to select tenants for the higher rate of rent and for the lower rate of rent is bound to be resisted by the tenants. This will mean a great confusion and will result in a class-war between the tenants *inter se* and between the tenants and the landlords. This suggestion will, therefore, create insurmountable difficulties and the Committee does not support it.

50. The suggestion at (*b*) above, if closely examined, will amount to this that the proprietary holding of 182 *kanals* will in effect be reduced to 100 *kanals*. The tenant will have to pay one-half of the produce to the landlord for the first hundred *kanals* and for the balance the tenant will not pay anything and will be responsible to pay the revenue for the remaining holding. This does not appear to be a proper solution of fixation of rent as it will amount to the reduction of the proprietary holding and not the fixation of rent.

51. Coming now to the last suggestion, namely that of fixing a uniform rate of rent, the Committee is of the opinion that it is the only practical, convenient and equitable solution of the problem. By fixing a uniform rate of rent for the whole holding the difficulties referred to hereinbefore will be completely obviated.

52. The only question that calls for consideration is the rate that should be proposed. At this time the law provides rent at the rate of one-half for tenancies not exceeding 100 *kanals* and at the rate of one-fourth if the tenancies exceed 100 *kanals*. It may be pointed out that in actual practice if the law is enforced in its spirit the advantage to the tenants in the shape of reduced rate of rent is more apparent than real. This has been impliedly conceded by the Land Reforms Officer in his memorandum. At page 17 he says :—

> " It may also be pointed out that the tenancies exceeding 100 *kanals* undergo a process of sub-division through inheritance and succession, whereby the size is reduced with the result that the successor landlords automatically get the benefit of receiving a higher rent than one-fourth or one-third which the predecessor landlord used to get from the tenants."

53. It is clear that as soon as the landlord's holding

comes down to 100 *kanals* or less, and this must be the inevitable result in almost all cases as soon as the present landlord dies, the tenant will have to pay enhanced rate of rent, namely at one-half. How will a tenant who used to pay one-fourth/ one-third rent to the previous landlord reconcile himself to the payment of one-half rent as soon as the said landlord dies leaving more than one successor. The result will be that a tenant will, in the changed circumstances, refuse to pay the enhanced rent and the landlord who attempts to demand higher rate of rent will be resisted by him.

54. It has been represented before the Committee that the present invidious distinction in the rate of rent has led to discontentment as some tenants have to pay one-half of rent and certain others one-fourth. A single tenant may have to pay one-fourth to one landlord in respect of one tenancy and and one-half to another landlord in respect to another tenancy. It was represented before the Committee that this distinction in the rate of rent is one of the main causes of dissatisfaction and bitterness between the landlords and the tenants, and between the tenants themselves. It is natural that where there are landlords holding more than 100 *kanals* tenants will vie with one another and try to get hold of their fields while the fields of smaller landlords will not be sought after by the tenants. The present law on the subject has given rise to complications and also to, what may be called, class-war between the landlords and the tenants on the one hand and the tenants *inter se* on the other. As already pointed out above on the death of present landlord and succession of more than one heir on his death and the consequent reduction in the size of the landlord's ownership to below 100 *kanals*, the tenants of the entire land will have to pay one-half rent. In these circumstances the Committee are of the opinion that the rate of rent should be uniform for all lands irrespective of the size of the holding or tenancy as suggested above.

55. There is yet another factor which has an important bearing on the question of rent. In Jammu Province the State's share was fixed on the basis of half net assets standard and in Kashmir Province 30% of the gross produce was fixed as State's share. The State's share was fixed at the above standards on the assumption that the landlord would get rent at the rare of one-half of the produce. If the landlord were to get rent at the rate of one-fourth of the produce it would mean that in Jammu Province he would be entitled to get only about that much of produce as he would be liable to pay as

land revenue. In Kashmir Province the landlord will get 25% of the gross produce but will have to pay 30% of the produce as land revenue. If one-fourth of produce were proposed as rate of rent the landlord in Kashmir Province would have to pay about 5% from his earnings from other sources. It may be added that the settlement authorities have generally allowed one-half of the produce to the tenant and one-half to the landlord. If authority were needed in support of the above observations, reference may be made to para 43 on page 28 of the assessment report of Shahr-i-Khas Tehsil of the year 1977 which reads as under :—

> "The workable standard of State's share has been adopted at 30% of the gross produce. The matter was fully discussed in Mr. Talbot's review of the six Tehsils of the Valley on pages 27 to 30 and in the recently settled Tehsils of Kashmir. I see no reason to depart from this standard and adopt it for this Tehsil too as it was sanctioned by the Darbar."

Towards the end of para 36 on page 28 of the same assessment report, after giving the table showing how the rates recorded worked out, it is remarked as follows :—

> "These rates (Stage No. 3) are doubtless intended to represent owner's one-half share of the produce."

56. During the course of rercording evidence by the Committee a question was asked as to why the landlords have retained their ownership over land which in view of the above circumstances had, instead of being an asset, become a liability. The reason given by witnesses for retaining the land was that the prices of foodgrains at this time were much higher than the prices estimated at the time of settlement. It was stated that if revenue were payable in kind instead of cash then as a result of the reduction of rent to one-fourth the landlords should have been compelled to surrender their lands to the Government.

57. Considering all the facts stated above the balance of advantage appears to be in favour of fixing rent at a uniform rate for all holdings irrespective of their size. The Committee accordingly suggest a uniform and equitable rate of rent to be fixed by the Government.

58. (*a*) *Ejectments.*—Before the Tenancy Amendment Act No. XIII of 2007 a tenant-at-will was liable to ejectment on the issue of a notice of ejectment under Section 50. The tenant had the right under law, on receipt of such a notice, to contest his liability to ejectment and in the alternative to claim

compensation. Even in that summary procedure for ejectment sufficient legally enforceable safeguards were provided to the tenant. Now a tenant including a tenant-at-will, who is a tenant from year to year, is not liable to ejectment except in execution of a decree for ejectment. This means that even if a tenant for one harvest is sought to be ejected the landlord has no cheap and easy remedy and must institute a regular suit for his ejectment. A decree passed in the suit will be subject to more than one appeal and after the decree is upheld by the highest Court he will have to apply for the execution of the same. All these proceedings will necessarily take several years and involve not only the landlord but also the tenant in protracted, unnecessary and expensive litigation. A tenant-at-will, being merely a tenant from year to year, will ultimately be ejected from the land but only after involving him and the landlord in costly litigation. Neither of the parties will be benefited thereby.

59. It was explained before the Committee by landless persons that the proprietors prefer to allow their lands remain fallow and uncultivated rather than give them to tenants. If there be any truth in this complaint it is attributable to the changed law relating to ejectments. The Land Reforms Officer explained why the change was made in the law in regard to ejectments. He stated that some times it happened that a proper notice was not served on the tenant and he was ejected without having recourse to any remedy. In order to remedy this difficulty Section 50 of the Tenancy Act was deleted and a tenant was liable to ejectment only by means of a regular suit and the execution of the decree obtained in that suit.

60. It might happen in rare cases that with the collusion of the landlord a notice may not be duly served on the tenant but this difficulty can be remedied in some other way than it is done now. The present procedure adopted is, as pointed out above, very lengthy and expensive. It is not only troublesome to the landlord but very inconvenient and irksome to the tenant as well. The Committee has received complaints from tenants that they have been dragged to the Courts by the landlords and much of their time and money is wasted in the Courts. Moreover the landlord will not trust his tenant and he will necessarily resort to direct and indirect means of harassing him and bring about his ejectment which will lead to all sorts of litigation between them. If there be a provision for summary ejectment as there was before, with all necessary safeguards provided for, the relations between the landlord

and the tenant will greatly improve and become harmonious. The tenant will feel a moral obligation to cultivate his landlord's land properly and pay his due rent and the landlord will have no reason or desire to trouble his tenant and take proceedings for his ejectment unnecessarily. With the improvement of relations between the landlord and the tenant the production of food will increase and it will result in the prosperity of the country. Even proprietor-tillers at various places represented to the Committee that where they gave their land to some tillers for purposes of cultivation it was difficult for them to get their land back for personal cultivation.

61. The Committee, therefore, proposes that the present Sections 47 and 48 should be repealed and old Sections 47,48 and 50 of the Tenancy Act restored with necessary safeguards to eliminate the possibility of collusion in obtaining spurious service of the tenant. This would meet the object of the amendment referred to above.

62. It is further proposed that in view of the fact that the principle of tenancy is based mainly on rent and its payment, the non-payment of rent should form a ground for ejectment of any class of tenants.

63. (*b*) Section 15-C gives a list of all lands in respect of which protected tenancy cannot be acquired. As a necessary corollary of it, it is proposed that tenants of all such lands should be liable to ejectment on the issue of a notice of ejectment. Section 15-C includes land situate in cities, town and notified areas. A provision for summary ejectment of tenants of these areas will contribute greatly towards all round improvement and growth of these areas.

64. (*c*) A brief reference may be made to Section 57-A of the Tenancy Act. It provides for summary reinstatement on land of tenants dispossessed otherwise than in due course of law. The limitation for making of the application under that section has been practically kept at the discretion of the Revenue Minister. The Committee is of the opinion that it would be preferable to lay down limitation specifically in the section itself as we have it in Section 15-B. The Revenue Minister first fixed two years from 1st Baisakh, 2007, and subsequently extended it by another two years. The time already fixed will elapse with the end of the year 2010 that is to say, after nearly a year. It is suggested that Section 57-A be suitably amended so as to limit the limitation for such applications up to the last day of Samvat year 2010.

WORKING OF LAND REFORMS IN LADAKH DISTRICT.

65. *Gardens—Exemption from Abolition Act.*—While the Committee was in Ladakh the proprietors appeared before the Committee in large numbers and they were unanimous on this point that the unit of 182 *kanals* was not sufficient for their requirements taking into consideration the productivity of the land and the inferiority of the soil in that *illaqa*. They, however, laid special emphasis on the fact that they were not allowed to retain gardens which were specially excluded from the unit of 182 *kanals* on the ground that they did not grow fruit trees. They had, with great difficulty, planted trees of willow and poplar for the purpose of fuel and timber. They have not been allowed to retain these gardens because not growing fruit trees they did not come within the definition of orchards.

66. The Committee travelled on ponies for about 22 miles in Leh Tehsil and found that there were hardly any trees throughout the area. Only in small plots the people had at some places planted willow and poplar trees which are utilised as timber for the construction of the houses and for fuel. Instances have been met with where proprietors have given up areas under cultivation in order to retain the gardens containing these trees. If a proprietor is allowed to retain orchards containing fruit trees elsewhere there seems stronger reasons for allowing a proprietor in Ladakh to retain an area in which he has grown trees for the purpose of timber and fuel considering scarcity of fuel and timber in that *illaqa* and also the fact that what are known as orchards elsewhere are gardens growing willow and poplar trees here.

67. The Committee proposes that *bedzars* and *safedzars* and gardens having trees in Ladakh District should be allowed to remain with the proprietors in addition to the prescribed units.

68. *Gumpa lands—Exemption from Abolition Act.*—In Ladakh it was represented to the Committee by the tenants as well as the proprietors that the lands which are attached to the religious institutions of theirs called *Gumpas* should be excluded from the operation of the Abolition Act. It was rather surprising that the tenants who were likely to gain by the operation of the Act on the lands attached to the *Gumpas* have unanimously desired that these lands should remain attached to the *Gumpas* and be free from the operation of the

Abolition Act. It was specially enquired from them why they were in favour of retention of the land with the *Gumpas*. Their reply was that the lands which were attached to the *Gumpas* were cultivated by the tenants and they had to pay only $\frac{1}{4}$th of the produce to the *Gumpas*. The *Gumpas* share of produce was utilised for educational, religious and charitable purposes and for feeding the poor and the needy and, therefore, they would like that the *Gumpas* should not be divested of these lands. It would hurt their religious feelings in case the Act was made operative on these *Gumpa* lands.

69. The Committee was told that on their representation the operation of the Act had been suspended for the time being by an executive order of the Government yet the demand of the public at large was that the exemption of the *Gumpas* from the operation of the Act should be incorporated in the Act itself. This suggestion is commended to the Government for favourable consideration.

RURAL CREDIT.

70. Lastly the Committee would like to add that throughout the Muffasils of the State where they had the opportunity of going they were distressed to find that along with the land reforms introduced in the State no facility had been provided for rural credit. Before the introduction of land reforms a villager could borrow for the purpose of agriculture from either his landlord or from the money-lender. It is no doubt true that the money-lender took under advantage of the simplicity of the villager but there should have been some other agency provided by the State to replace that money-lender so that the villager could have got every facility to obtain credit in the rural areas. From the Co-operative Department we learnt that there are Co-operative Credit Societies in some parts of the State ; but as stated by witnesses, these societies were not functioning properly and are not advancing money to the poor and needy agriculturists who have, therefore, to find some means to secure credit for the purpose of agriculture. From the information supplied by the Registrar, Co-operative Societies, we learn that during the years 2006, 2007 and 2008, the Agricultural Credit Societies in Jammu issued Rs. 14,388, Rs. 19,016 and Rs. 32,804 and in Kashmir Province during these three years the Agricultural Credit Societies issued Rs. 28,282, Rs. 72,285 and Rs. 64,514 for the purpose of seeds, payment of land revenue, purchase of implements, purchase of cattle improvement of land, and for purchase of

fodder. These figures speak for themselves and show clearly that Co-operative credit societies have not come handy regarding rural credit at a time when all their other sources had disappeared. We shall have to say much more about the functioning of the Co-operatives in a latter part of this report.

71. The Committee received heart-rending accounts from these agriculturists and would, therefore, recommend that co-operatives having failed, the Government should provide speedy facilities for rural credit and relieve the agriculturists' distress on this account.

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SUMMARY OF RECOMMENDATIONS

I.—The inconsistencies, anomalies and inequities as pointed out in Appendix IV be removed.

II.—The maximum unit for a proprietor in Kashmir Kandi should be fixed at roughly 28 acres and for a proprietor in Jammu Kandi it should be fixed at 34 acres.

If for any reasons it be not practicable to increase the size of the unit in Kandi areas then the proprietors should be given freer hand in regard to their unit of land.

III.—The maximum a tiller can acquire in ownership under the Abolition Act together with the land owned by him should not exceed 65 *kanals* and there should be no bar against such a tiller acquiring by purchase or otherwise further land in ownership right up to the limit permitted for a proprietor.

IV.– There should be equitable distribution of land particularly in favour of landless tillers and the agricultural labour.

V.—The Government may consider the *bona fide* cases of mortgages that have taken places prior to 1st Katik, 2004, for some relief to them.

VI.—There should be no restriction on the absolute right of a proprietor to transfer his land subject to the provisions of the Land Alienation Act.

VII.—The Government may consider whether or not the disqualification, namely inability of a tiller to dispose of land transferred to him be removed after a certain period of time to be specified by the Government.

VIII.—There should be no fragmentation of land below 65 *kanals* by partition.

IX.—To ensure that the provisions of the Big Landed Estates Abolition Act have been correctly followed by the staff appointed for implementation thereof the Deputy Commissioners of districts should inspect on spot a certain percentage of cases decided by the staff.

X.—Clause IX of Section 15-C of Tenancy Act as enacted in the Amendment Act of 2005 be restored with the proviso omitted.

XI.—The following explanation be added to Section 15-A of the Tenancy Act :—

" The time spent in a suit for ejectment of a tenant up to its final decision and the time spent in execution of the decree obtained in the suit shall be excluded in counting the period of six years mentioned in the section."

XII.—An unsatisfied decree for arrears of rent should be a ground for ejectment of a protected tenant.

XIII.—Land of proprietors who keep it fallow for two consecutive crops should be given to the landless tillers.

XIV.—A landlord should be allowed to cultivate (without engaging agricultural labour) at least 65 *kanals* in Kandi area in Jammu and proportionate area in Kashmir Kandi.

XV.—The Government should consider the fixation of certain criteria under which no family has more land for personal cultivation which is beyond its tilling capacity.

XVI.—Fixation of a uniform and equitable rate of rent for all holdings irrespective of their size.

XVII.—Sections 47 and 48 of the Tenancy Act be repealed and old Sections 47, 48 and 50 restored with necessary safeguards to eliminate possibility of collusion in obtaining spurious service of the tenants.

XVIII.—Non-payment of rent should form a ground for ejectment of any class of tenants.

XIX.—Tenants of lands enumerated in Section 15-C should be liable to ejectment on the issue of a notice of ejectment.

XX.—Section 57-A be suitably amended so as to limit the limitation for such applications up to the last day of Samvat year 2010.

XXI.—*Bedzars, Safedzars* and gardens containing trees in Ladakh District should be allowed to remain with the proprietors in addition to the prescribed limits.

XXII.—Exclusion of *Gumpa* lands from the operation of the Big Landed Estates Abolition Act commended for favourable consideration.

XXIII.—The Government should provide speedy facilities for rural credit.

WORKING OF THE SYSTEM OF PRICE AND OTHER CONTROLS PREVALENT IN THE STATE.

WORKING OF THE SYSTEM OF PRICE AND OTHER CONTROLS PREVALENT IN THE STATE.

The second question referred to the Committee for consideration and report relates to the working of the price and other controls prevalent in the State. This question covers the following controls, namely :—

(*a*) Controls on essential commodities ;
(*b*) Transport control including petrol rationing ;
(*c*) Food control ; and
(*d*) House and shop rent control.

These will be discussed *ad seriatim.*

CONTROL ON ESSENTIAL COMMODITIES.

2. We first deal with the control of essential commodities and it shall be discussed separately for the Provinces of Jammu and Kashmir and the District of Ladakh.

3. The commodities at present controlled are sugar, salt, cloth, yarn, cotton, cement, iron and steel and a few other commodities like drugs and fuel in Kashmir.

4. The Committee has received memoranda from various persons dealing with controls. From these memoranda the Committee gathers that World War II brought in its train great economic slump and acute shortage in the supply of commodities essential to the life of the community in India. Controls, being a creation of World War II, were introduced because essential commodities were in short supply and the object underlying was to have their equitable distribution on fair prices. This had its effect on the supplies in the State also as almost all the essential commodities such as salt, sugar, cloth, kerosene oil, etc. were purchased and imported from the producing centres in India. Supplies ran short in the State and in order to ensure adequate supplies and their equitable distribution both in the towns and Muffasils at fair prices, the State Government had to fall in line with the rest of India in regard to the general policy of controls over essential commodities. Import quotas of different commodities were secured on the basis of average imports during the previous years and their distribution at reasonable prices was arranged through the Supplies Department which was specially set up to attend

to this work. Orders to control import, movement, supply and distribution of various commodities were issued from time to time beginning from the year 1939.

5. In 1947 Pakistan raids greatly disturbed the economic structure of the State resulting in acute shortage of essential commodities. The transport system was paralysed and normal channels of trade were disrupted. The Government had, therefore, to make special arrangements for the purchase and import of essential commodities. We have it from the Director General, Food and Supplies' statement that in the beginning of 1949 when the position became somewhat stabilised and the Supplies Department started functioning after reorganisation the control over import, storage, distribution and prices of controlled commodities was properly rationalised. During the last four years the controls in the State had been modified from time to time to adapt them to the changing conditions and have been kept in a dynamic state keeping in view the best interest of the consumer.

6. Controls were introduced obviously with the best object and served their purpose for a particular period of time especially during days of shortage of essential commodities in India. Continuance of controls in the State was justified because the rates of essential commodities in general had gone up because of the raids.

Jammu Province.

7. We take up Jammu Province first and deal with the controlled commodities in that Province. All the essential commodities excepting cloth have lately been decontrolled in Jammu Province. These items will be discussesd below.

Cloth.

8. Cloth is controlled in Jammu Province only to the extent of 20% and it is, therefore, not necessary to go into the details of the controls obtaining from time to time. We shall confine ourselves to the system of control as it exists at present. Hand-loom and power-loom cloth is entirely decontrolled. It is available in free sale in India and its import into the State and free sale here is unrestricted. There is no control over its distribution and price. The only restriction is that this cloth can be sold by those persons who hold licences from the Supplies Department. The licencees are

authorised to sell not only the controlled varieties of cloth but also the decontrolled varieties.

9. The Director General, Food and Supplies, stated that the present policy in regard to control over cloth in Jammu Province is almost the same as that in India. Previously there was control on all varieties of mill-made cloth but now control over fine and superfine cloth has been lifted and there are no restrictions on their import, sale and distribution in Jammu Province. Now 80% of the previously controlled coarse and medium cloth available in free sale in India is freely permitted to be imported into Jammu Province and sold by all cloth dealers and only 20% of coarse and medium cloth, namely grey sheeting, long cloth and shirting are under controlled distribution. A quota of these varieties of cloth is allotted to our State by the Textile Commissioner of the Government of India.

10. The share of the above 20% of coarse and medium cloth allotted to the State is imported through Jammu Cloth Syndicate and sold through retail licencees of cloth under controlled distribution. The Supplies Department has fixed the margin of profit for wholesale and retail sale of cloth. The Director General in his memorandum says that the existing wholesale issue prices of cloth were 20% over ex-mill price in the case of the outer zone and 17% over ex-mill price in the case of the inner zone and in the case of retail sale 29% over the ex-mill price for the outer zone and 26% over ex-mill price for the inner zone. He has, in his memorandum, given the break-up of the price for the outer as well as the inner zone. In the case of wholesale the break-up includes profit at the rate of 3% on landed cost and in the case of retail sale at the rate of 9%. The Government premium in both cases was 2%. He has further stated that under Government orders tenders were invited for the appointment of district nominees for the import of cloth allotte d by the Textile Commissioner into Jammu but no tenders were received which showed that the margin of profit fixed at present was the minimum and there was no scope for further reduction. It has further been stated that 2% premium on the small quota of controlled cloth received at present did not cover even the administrative charges.

11. From the oral and documentary evidence it appears that only 20% of coarse and medium cloth is under control and all other varieties including fine and superfine cloth are

not under control and their import and sale is not restricted. This 20% coarse and medium cloth is imported into Jammu Province through the cloth Syndicates and then given over to retail licencees for sale. It is, therefore, clear that the extent of control on cloth is now very meagre and we have it from the Director General that the above policy in regard to cloth is the same as that obtaining in India. The reason why 20 % of the above varieties are controlled is that they are controlled at the source, their distribution being controlled in India.

12. From the memorandum submitted by the Director General it appears that the break-up of the wholesale price of the controlled varieties of cloth consists of overhead charges which include customs duty, freight, loading, unloading and Pathankote Agency commission. It also includes 2% of the Government premium. While a profit of 3% on wholesale may be reasonable, a profit of 9% on retail sale is rather high. It should be in no case more than 4% to 5%. There are, besides small items of overhead charges which can be eliminated or reduced and it should easily be possible to reduce the issue price in consequence.

13. It should not be difficult to bring the wholesale price to a much lower figure than what it is at present. The one matter in this connection—and it is an important matter—is that it was alleged by many witnesses that the prices of cloth in India are coming down very fast and that in open market cloth was available from at 10% to 25% and even more, below the ex-mill price. It was also alleged that the ex-mill price as stamped on the cloth was much more than that at which it was actually sold and, therefore, it cannot be taken to be correct and it was wrong to work out wholesale price on the basis of the incorrect inflated ex-mill price.

14. It has further been alleged that with regard to 20% controlled cloth that is sold through the Syndicate in Jammu arrangements for its supply are actually made through the Supply Officer Bombay. This results in receipt of cloth that may not be actually in demand in the Province as well as in the possibility of the consumer not obtaining the advantage of any fall in prices below the ex-mill prices. The purchase through the Supply Officer Bombay has come under trenchant criticism before the Committee and it has been alleged that—

(*a*) The Supply Officer Bombay is not expert to select cloth according to the needs of the State.

(*b*) He selects inferior cloth and at the ex-mill price marked though the market price is much below the ex-mill price and in fact the witnesses have gone so far as to say that the Supply Officer in collusion with the mills selects the cloth which the mills could not otherwise dispose of at the ex-mill price and diverts the same towards the quota for Jammu and Kashmir State.

(*c*) When a mill finds that some variety of cloth cannot be disposed of by it the Supply Officer is approached so as to arrange lifting of that inferior quota for the State.

15. The Committee do not know what truth there is in these allegations but they would certainly urge upon the Government to institute immediate investigation into the matter.

16. Meanwhile the Committee would strongly recommend that even if there is 20% cloth controlled in India, the Jammu Syndicate should have absolutely a free hand in selecting their quota and the mills from which they like to lift to enable them to import the controlled cloth in Jammu. In fact the Committee would go as far as to recommend that the Jammu and Kashmir Government should intervene in requesting the Textile Commissioner to make allotments from the mills and of the varieties which the Syndicate would like to buy.

17. The Supplies Department should make sure that the ex-mill issue price as marked on cloth is really the price at which that cloth is available in India. As there is very little control on cloth in India and in Jammu Province, the Committee would suggest that licences should be issued freely to all the dealers, regardless of the fact that they have been dealing in cloth before or not and that they should be encouraged to get as much supply of decontrolled cloth into the State as they like so that by competition the price will automatically come down.

18. The Committee has not been able to appreciate the basis for restricting sale of decontrolled cloth including hand-loom cloth to licence holders. There is no justification for restricting the sale of decontrolled cloth by licencees as that would be an indirect way of exercising a measure of control over it. In the opinion of the Committee there should be no

restriction on the sale of decontrolled cloth and any one should be at liberty to import such cloth and sell it. The issue of licences for sale of cloth should continue only with regard to those varieties of cloth which are still under control, namely 20% of the coarse and medium cloth.

19. The licence fee charged at present is Rs. 5 and the renewal fee of the licence is also the same. It is suggested that the fee Rs. 5 for grant of licence may continue but the fee for its renewal every year should not be more than Rs. 2.

YARN.

20. It was stated that 50% of yarn is now available for free sale in India and, therefore, it had been decided to allow free import of yarn by licencees subject to ceiling prices and to stop yarn import on Government account for Jammu Province. It was further stated that consumers will have the option to obtain their supplies either from the existing Government stocks or from the private importers. The wholesale and retail issue prices of yarn at Jammu were 12% and 13¼% over ex-mill prices respectively.

21. In regard to yarn it would be desirable that private import of yarn by our dealers from free sale in India be encouraged. The Committee was told at Samba that the yarn imported by the Government was not at all useful as the counts and specifications of yarn were not those which were in demand in that area. The stocks of yarn could not, therefore, be lifted in Jammu, as also because of the fall in prices in India, resulting in accumulation of huge stocks which were proposed to be diverted to Kashmir for disposal under control. If the dealers were to import the yarn on their own they would have imported yarn of proper counts and specifications for which demand in the locality existed. By allowing private dealers to import the required yarn the actual demands of handloom weavers would be fully satisfied.

COTTON.

22. In India there are no restrictions on the sale of cotton except that its inter-State movement is controlled and as such it is being imported into the State on the permits of the Textile Commissioner Bombay. The State appoints nominees, after inviting tenders, and these nominees import cotton into the State. The present monthly quota of cotton is 95 maunds

which, after being imported into the Jammu Province, is sold without quantitative restrictions on ceiling prices fixed by the Department. The existing issue price was Rs. 1/2/- per seer in Jammu. The only control which exists in India on cotton, therefore, is on its inter-State movement. In these circumstances the import of cotton through nominees is necessary. It is, however, suggested that nominees should be appointed district-wise and even Tehsil-wise, if possible, so that cotton is readily available in every Tehsil.

SALT.

23. Control over salt has been lifted in India with only restriction of its movement from one State to another except under a permit from the exporting State. This control is exercised through the Salt Controller. It has been stated by the Director General that in the prepartition days salt was imported through private dealers but due to conditions created by disturbances the nominees appointed for import of salt could not arrange supplies of adequate quantities and, therefore, it was decided to import salt on Government account to ensure adequate supplies. The supplies of salt at reasonable prices were freely available in all parts of Jammu Province, even in far flung areas and even a *karyana* dealer was permitted to sell it without quantitative restrictions subject, however, to price control. In his statement before the Committee at Srinagar he has further stated that it is understood that the Government of India have asked for the opinion of the various States whether or not even this restriction should be removed. If the Government of India released this condition on the recommendation of the State Government, if they so think proper, there is no reason why salt be controlled at all in Jammu Province. If, however, that does not happen soon, it is suggested that nominees should not only be appointed district-wise but efforts should be made to appoint Tehsil nominees. These district nominees appointed by the Supplies Department to get supplies from outside can be made to distribute salt to the Tehsil nominees and not themselves act as retail dealers.

SUGAR.

24. In regard to sugar the Director General has stated that it was being imported through nominees after inviting tenders that there was no restriction on its sale throughout the Province of Jammu and that wholesale and retail prices per maund were Rs. 38 and Rs. 38/12/- respectively. In

the rural areas price varied according to transport and other incidental charges. It appears, however, that after decontrol of sugar its price in Jammu has gone down further with the result that sugar there is being sold at annas fourteen a seer, *i. e.* Rs. 35 a maund in retail sale.

25. In regard to sugar and salt the position in Jammu Province is satisfactory and is improving as the decontrol of these commodities has led to a general fall in prices. In regard to sugar it is, however, suggested that there should be no restriction in regard to its import as sugar is available in open market in India without any restriction on its movement. There is, therefore, no justification for restricting its import into Jammu Province. Any dealer, big or small, should be at liberty to import whatever quantity of sugar he likes without any restrictions.

CEMENT.

26. The distribution of cement in India is controlled by Government through the Cement Marketing Company. The State's monthly quota is 250 tons out of which 130 tons are imported into Jammu Province through the agents of the Cement Marketing Company of India. It is sold under controlled distribution on the permits of the Supplies Department. The Director General has stated that it was proposed to appoint fresh stockists by inviting tenders but according to arrangements made between the Government of India and the Cement Marketing Company our State Government could not interfere in the agencies approved by the latter and, therefore, the proposal was dropped.

27. It appears that the Cement Marketing Company of India employs its own agency for import of cement into the State but it does not mean that the agent approved by that Company is necessarily to deal with it both as a wholesale and retail dealer. All that the Company can insist upon is that cement shall be imported only by their agent or agents and to that extent there may be no objection, but to permit that importer to be the sale distributing agent, wholesale and retail, is not in the interest of the consumers in general. The Committee was told in Jammu that the control price of cement was about Rs. 17 per bag whereas in the market a bag of cement was available at times even for Rs. 9. This shows that there is some defect in the control and it would be in the interest of the consumers if the Supplies Department can take

measures ensuring that the wholesale and retail business in Cement is not conducted by a single agent of the Company. It is proposed that the agent of the Company should be required to confine his work to the import of cement and not to deal in wholesale or retail business. Further if necessary the Governnment of India or the Cement Marketing Company should be approached not to give the monopoly or agency to a single dealer in the State and in particular in Kashmir Province. They should be requested to appoint a few agents belonging to the Company itself, who will only deal in wholesale disposal of cement in competition among themselves and allow other dealers to have retail sales. The agents of the Company so appointed should be required to confine their work to import of cement and not to deal in retail business. The agent or agents of the Company should be asked to supply cement to the city as well as to district nominees to be appointed by the Supplies Department. In fixing the ceiling prices the rate of profit should be calculated on the ex-factory cost and not on the landed cost including overhead charges. In calculating landed cost the invoice of the Company should be examined and also the customs permit in regard to the import duty paid. The margin of profit should be the same as it is in India.

28. This is very astounding that, as referred to above, cement in black-market should sell at half the controlled price. The question naturally arises as to what is the source of this cement in the open market which is a controlled commodity. It has been deposed by some witnesses that this cement comes from the Government construction works, the estimates of which are prepared making provision for supply of cement by the Government and because the requirements of cement are over-estimated, the cement thus saved from the execution of these works goes to the black-market and is sold at reduced rates. If this allegation be true then certainly this is a very serious matter for the Government to investigate and to take such action as be deemed necessary in this behalf.

Iron and Steel.

29. In regard to iron and steel the system seems to be nearly the same as in regard to cement. Here again we make the same suggestions as made in regard to Cement.

30. It is further suggested that the control policy in regard

to these commodities should be exactly the same as it is in India and only those categories should be controlled here as are under control in India and all categories decontrolled there should, in no case, be under control here. The registered stock holders should confine themselves only to the import of commodities and not deal in wholesale or retail business of these. Sub-dealers should be appointed to deal in wholesale and retail business, both in the city and district headquarters. The import and distribution of decontrolled categories should be allowed freely in the State by any dealer subject only to price control. The margin of profit and the landed cost should be calculated in the same manner as proposed for cement. It is further suggested that the distribution of categories needed for local industries should either be done by the Industries Department or in consultation with it.

Kerosene Oil.

31. In regard to kerosene oil the only control exercised by the Supplies Department is that on price. A ceiling price has been fixed and the oil company has given a guarantee for keeping adequate supplies throughout the Province at all times. This guarantee has been fully adhered to by the oil company and the arrangement thus made is working satisfactorily. Inspite of the fact that kerosene oil has been decontrolled there is no scarcity of this commodity and the prices have gone down.

Kashmir Province.

32. *General.*—The system of control as obtaining in the Kashmir Province is entirely different from that of Jammu Province. In Kashmir Province cloth, sugar, salt continue to be controlled commodities. They are not only controlled in the sense in which this term is generally used but they are the commodities in which the Government itself trades. The commodities are imported into this Province on Government account, stocked in Government godowns and sold through Government agencies.

33. This is not the only difference between the system prevalent in Jammu and Kashmir Provinces. Another main point of difference between the systems as obtaining in the two provinces is that whereas the distribution of these commodities in Jammu was made through licensed dealers appointed by the Supplies Department except in the case of Reasi Tehsil

where the Co-operative Stores had the monopoly of distribution for a short time, in Kashmir the monopoly of distribution in the whole Muffasil was given to the Co-operative Stores which monopoly was shared by the licensed dealers for the city of Srinagar only. The business in the controlled commodities is wholly done and managed by the Government.

34. *Co-operative Stores.*—During our tours in the Muffasils of Kashmir Province we were greatly distressed at the almost unanimous demand from the people at large including unsophisticated peasants at almost every place in huge public gatherings that all that they wanted was that they be relieved from the tyranny of the Co-operatives. In Shopian we were greeted by a number of persons carrying placards on which it was written "Down with the Controls". The Cooperative movement no doubt is a movement of social service. A healthy co-operative movement conducted in the best interests of general public is a great asset to the society. We have been amazed to find so much hatred and distrust towards the co-operative movement. It is a pity, however, that in actual practice such a laudable movement should have been implemented in a manner so disadvantageous to the consumer that it has created hatred and distrust in the minds of the peasantry. The people, one and all, spoke against this movement and wanted to get rid of it as soon as possible. Apparently the co-operative movement has not been functioning well which has completely destroyed its utility. In fact the Committee feel that the co-operative movement has received such a set-back that it is doubtful if it can ever rehabilitate itself in the Muffasils of Kashmir. The peasantry in general take it as a sort of scouge of which they have begged us to relieve them as early as possible. We should have expected the co-operative societies to have contributed towards the service of the rural population but to our great surprise and dismay the reaction of the people has been otherwise. The co-operative movement has not only lost prestige, respect and confidence in the rural population but has, on the other hand, earned a bad repute for numerous ills which the people have enumerated before the Committee.

35. The co-operatives have not done much in the discharge of their fundamental duties and responsibilities of providing rural credit but have in recent years switched over to other multifarious activities and become regular business organizations dealing with essential commodities including the procurement and purchase of foodgrains. The Committee sought

enlightenment from the Director General, Rural Departments, who claimed to be keenly interested in the work of the co-operative and multi-purpose societies, as to what was responsible for the bitterness in the minds of the people living in Muffasils against these co-operatives. His reply was :—

> " I am grieved to hear that those persons who came to depose before the Committee spoke generally against Co-operative Department but I hope the Committee will take note of it that bulk of these men were those who were either some members of the Co-operative Organisations, Presidents of the Stores, thrown out salesmen or dismissed Accountants who either on party faction or for their self grievances gave vent against this Department, or those were shopkeepers who feel that this movement snatched their bread. I never submit that there are not black-sheep in the Co-operative movement. In fact there are and we have punished dozen of these black sheep in these last five years, but what I submit is that this movement with all its short-comings has eliminated black-market to a very great extent and unfortunately this credit is not being given to the zealous workers and members of this Department. I move in villages much more than any other Officer of the State and I have a proud privilege to be looked upon by the peasant not as his Officer but as his co-worker. It is entirely incorrect to say that majority of the salesmen or storekeepers are corrupt and they deal in black-marketing. Wherever we have received complaint we have made thorough enquiries and after this we have punished the culprits.
>
> My firm conviction is that we have eliminated black-market to a great extent than it would have been otherwise."

The Director General was told by the Committee that in open public gatherings where they had four to five thousand people at a time and where the witnesses were deposing in their mother-tongue and were understood by the whole assembly it was put to the people whether the condemnation made by a particular witness of the co-operatives was shared by them and that with one voice and by raising their hands the whole assembly would say that they were in agreement with the evidence of such a witness. It was further pointed out to the Director General that the Committee did not satisfy itself with such show of hands alone but also put it to the people that if any body had to say anything in favour of the present working of the co-operatives he was at liberty to depose before the Committee, but not a single soul stood up. The Committee selected out of the gathering some people whom the Committee considered as really representing the rural population and asked their opinion about the controls and co-operatives. The Director General was further told that the Committee went to certain places without sending their

programme and they contacted peasantry there on their own who had the same woeful tale to tell. Certainly all this clearly shows that the evidence produced before the Committee was not tutored and we are fully satisfied that people expressed their genuine feelings in an honest and straight-forward manner. We shall have more to say regarding the working of co-operatives in Muffasils while dealing with the specific allegations made against them at a later stage.

36. *General Examination of Controls.*—The Controller of Supplies, Kashmir, was asked as to whether he was prepared to decontrol cloth, sugar and salt in Kashmir Province to the extent they were decontrolled in Jammu Province especially when supply admittedly exceeded the demand. The only answer that has been made by him was that due to geographical conditions it was not considered expedient to relax controls over these commodities. His contention is that whereas in Jammu Province the rail-head is very near and traffic remains open for the whole year and supplies are available at all times, it is not so in the case of Kashmir. In Kashmir not only is there a large distance of 200 miles from Jammu but the road remains blocked for three or four months every year due to blockade of Banihal Pass. His fear is that if these commodities are decontrolled in Kashmir it may not be possible to get sufficient supplies available for the winter months and that it will lead to businessmen creating artificial scarcity by cornering these things and raising their prices abnormally. The Controller of Supplies has further mentioned that if supply of commodities sufficient for three or four months of winter in Srinagar were guaranteed there could be no objection to decontrolling these commodities. The Director General, Food and Supplies, on being examined regarding decontrolling of sugar and colth to the same extent as in Jammu, admitted that he would have no objection. He, however, expressed hesitancy in agreeing to decontrolling of salt mainly on the ground of difficulty in obtaining wagons for its transport from the source. The Committee examined a number of witnesses in Srinagar including the President Chamber of Commerce, Beopar Mandal, and several other trading organisations. Their considered opinion was that the fear of prices rising because of Banihal Pass remaining blocked during three or four months in winter or due to rains was absolutely unfounded. Their view was that when State trading was finished and controls abolished, the traders who had been in business for generations would be careful in keeping adequate supplies available throughout the year. They

stated that businessmen would not only get the things from the cheapest shops available in India but would also transport them to Kashmir when the transport charges were low. Such traders would not like that the money which they had invested should remain locked up for a long time. On the other hand they would like to sell the commodities and convert them into liquid money. Some of the traders have brought to our notice the case of tea which is used in abundance in Kashmir and it was stated by them that in spite of the Banihal Pass remaining blocked for nearly three months the price of tea did not shoot up and there was abundant supply of this commodity throughou. Kashmir Province. In fact they said that the price of tea kept pace here with its fall in the Amritsar Market in winter. Their general view was that they will keep stocks available at every time according to the requirements. They went to the extent of saying that they would give a guarantee to that effect to the satisfaction of the Government if the Government has any fears on that account. The Chamber of Commerce stated in regard to this matter as follows :—

" It is fully conscious of the difficulty involved in the regular transport and flow of commodities for about three months in the winter season when the land communication is blocked due to snow and frost over the Banihal Pass. This is a matter of great concern to the Chamber of Commerce. Notwithstanding this fact the Government should not have been induced on this account to deprive the private trade of their enterprise when regular supplies within the ceiling prices were assured and guaranteed. This guarantee, the Chamber reiterates emphatically, still-stands."

In para 23 of its memorandum it mentioned further :—

" The Chamber considers that it is unnecessary at the stage to give any concrete suggestions with regard to each controlled item but once the principle of decontrol is accepted by the Government, the Chamber would suggest the appointment of a Board of Trade comprising of officials and representatives of the business community to advise and direct in this behalf."

38. With very few exceptions the witnesses in general supported the views expressed by the trading bodies that with the decontrol of commodities there was no fear of the prices scaring up in winter months. They, however, generally agreed that some sort of safeguard should be provided for ensuring adequate stocks during winter months. It was suggested by them that the traders be asked at the beginning of winter to keep in stock these commodities in such quantities as may suffice for a period of four months and that they should be

subject to inspection by the authorities of the Government to verify that these stocks were actually stored by them. The other suggestion that has been generally made was that the Government should itself stock such quantities as will be required for a period of four months in their godowns so that if the stocks in the market ran short the Government may release their stocks to meet any possible emergency.

39. It may be mentioned here that the necessity of having reserve stocks would arise mainly in the case of salt which is universally consumed and to a certain extent only in the case of sugar being commonly consumed usually by middle class. In the case of cloth, the necessity would not at all arise as in winter months in Kashmir mill-made cloth except limited varieties of coarse cloth are not generally in demand and therefore, any large reserve stock of cloth will not be needed, As already stated the witnesses have in general expressed that some safeguard for building up four months stocks in winter should be provided for but the Committee had it from some witnesses, among whom were well educated and experienced people, who stated that they would prefer facing risks in the absence of stocks rather than let the present system of control continue.

40. Some witnesses have even gone so far as to say that if the worst came to the worst essential commodities could be carried by head loads from Banihal to Verinag when the Banihal Pass is closed at an additional maximum cost of Rs. 2 per maund. These witnesses took us back to history when we had neither J. V. Road nor Banihal Road and described to us as to how essential commodities were carried from Punjab to Srinagar those days. The witnesses protested in general against Government taking the business in its own hands and depriving healthy competition among private businessmen, to the disadvantage of the consumers not to speak of petty village traders who have been deprived of earning their livelihood.

41. The impression of the Committee after hearing people both in the Muffasils and in the city is that the public feeling really is against the present system and they favour entire decontrol of all these commodities, and their import, distribution and sale through private agency in the Province. In spite of our explaining to practically every such witness the possible risk which decontrolling of these commodities might entail, *e. g.* hoarding, profiteering, the creation of artificial scarcity by cornering, in fact reminding them of the worst time

of 1947-48, they adhered to their own views which they have so emphatically expressed. They stated that the conditions had completely changed and there was no such fear if normal trade channels were allowed to function freely.

42. As regards the question of providing adequate stocks for winter in Kashmir it has been suggested that a guarantee should be taken from leading business organisations guaranteeing adequate stocks of these commodities throughout winter months within the ceiling prices. The trading organisations have expressed readiness to give such a guarantee in the shape of stocks or personal security. The Committee are confident that a reasonable guarantee in this behalf will be readily forthcoming. The other suggestion is that Government should itself build up stocks of these commodities, which may be sufficient for the winter months say from November of each year till the end of April next when such stocks can be disposed of every year. The little amount that may be locked up or the little financial loss that the Government may have to incur will be worth while to make a fool proof arrangement against all possible risks.

43. The Committee would further recommend that the Government should accept and implement the policy of decontrol forthwith in Kashmir on exactly the same lines as has been recommended for Jammu. In view of the difficulties pointed out the Government will certainly make necessary safeguards as stated above either in the form of their having their own reserve stocks for winter months or by obtaining adequate guarantees from the business community in the manner in which they consider these guarantees can be effective.

44. *Co-operative Stores—Monopoly of distribution.*—Coming to the monopoly of wholesale and retail business as enjoyed at present by the Co-operative Stores, the Committee have no hesitation in observing that they have not been able to find any justification for granting monopoly to the Co-operative Stores in the distribution of essential controlled commodities. namely cloth, sugar and salt. The grant of this monopoly has not only been detrimental to the interests of the entire trading community in the Muffasils by throwing them out of business but has also operated adversely against the consumer. It is only when there are more dealers than one in the field and the spirit of competition is introduced that the consumer can expect efficient and cheap service. When there is no competition the interests of the consumer cannot easily be safeguarded and he will have to be at the mercy of the monopolist. This

system of granting monopoly does not appear to be wise or useful. If the Co-operative Stores were intended to be encouraged all that was necessary to do was to let them function in competition with other traders of the Muffasils. The Co-operative Stores should have been one distributing agency and should bave been made to compete with other trading agencies in the locality.

45. *Financial aspect of State trading in essential commodities.*—Before referring to the grievances of the people relating to supply and sale of controlled commodities by these Co-operative Stores, it will be of interest to have an idea of the profits made by the Control Department and the financial aspect of the working of this system.

46. For the quinary 2005-2009, the control laws put into motion to combat commodity famine and to police the market on certain main items of daily mass consumption, salt, sugar and cloth have resulted in a net excess of sales realised by the Control Department over the landed cost, including interest to the tune of round about a crore of rupees in the case of Kashmir alone.

47. Total finance involved in procurement and overheads of these commodities amounted to Rs. 725 lacs. Assuming frequency of rotation of capital at 3-4 cycle a year of the average, the initial outlay would thus stand at Rs. 210 lacs. The net return of Rs. one crore on this outlay works to a return of 50% on the whole. This, however, excludes the premium levied on such commodities as kerosene oil, iron sheets and pipe etc. over which only price control was applied.

48. Compared to the rate of commission allowed to the city dealer and excluding freight and local taxes, rationing of the commodities in the Muffasil through the mediation of the Kashmir Province Co-operative Stores (K. P. C. S.) threw an additional impact of Rs. 8 lacs on the rural population, superimposed on the porportion, assignable on the quantity consumed in the Muffasil out of the initial profit of Rs. one crore made by the Control Department, while fixing their issue rate ex-godown.

49. Rationing of the essential commodities to the city consumer is the last of the successive processes of—

(*i*) Procurement at source of manufacture ;

(*ii*) Transport, Railway and road up to Base godown at Srinagar;

(*iii*) Issue to the Retail Dealer ; and

(*iv*) Issue to the consumer.

For the Muffasil consumer in between items (*ii*) and (*iii*) is interposed the K. P. C. S. and the wholesaler, besides transport from the K. P. C. S. (or control Base Godown, both having been housed shoulder to shoulder) to the lowest rung of the local Co-operative ladder. How far these processes have worked in the last to the comfort and relief of the consumer, especially the rural consumer and provided for him reasonable opportunity of obtaining his supply, in fair quantity and at a price within average reach is one which naturally strikes one who is concerned with a review of these measures.

50. The question as to what should be the fundamentals of the policy of the Control Department in the fixing of issue rates is an important one. The decision depends on how it is viewed at ; whether it is a Government Department like any comparable department of civil administration say the Police and Judiciary concerned with the prevention of mass exploitation by making available to the public in fair quantities ordinary items of supplies at the rock bottom cost when the ordinary trade channels have failed to or refrained from doing so ; or whether the Department should commercialise its activities in the normal trade spirit or again being in a specially advantageous position of the monopolist, over-commercialise by stretching the issue rates farthest from the landed cost. If the middle course of commercialisation is considered to be best suited to the financial status of the State, it would have the effect of fixing the issue rate at a figure equivalent to the actual landed cost plus interest on the capital outlay at the bank rate. In a healthy economic structure all forms of trade converge in the ultimate analysis to an uniform return round-about the bank rate. In the case of this State, the bank rate would be substituted by the rate of interest chargeable on loan issued to it by the Government of India which bears interest at $3\frac{1}{2}$ per cent. P. A. On this a slight element might be added on account of wastage and incidentals raising the total overhead to 4 per cent. P. A. In so far as sugar and salt are concerned capital is rotated in a greater frequency than every three months, but cloth takes longer. Assuming the average rotation between three and four months, the issue rate should have included not more than 1 per cent. P. A. to cover the actual charge the State had to meet on rationing the commodities, cost of establishment, godown

and contingent services being borne by the State as in the case of other general administrative departments. On that basis a total impact of Rs. 7 to 8 lacs should have fallen on the entire consumer population of Kashmir as against Rs. 110 lacs representing the difference between the landed cost and the sales, for the quinary 2005-2009. Evidently the policy adopted in the past in the Control Department has been of the over-commercialisation type.

51. For the city consumer the only intermediary between him and the Control Department is the retail dealer. There is nothing in the margin allowed to him to excite comment and it is well within the normal trade principles of retail sale.

52. The mediation of the whole hierarchy of the Co-operative Society Organisation has, on top of all other items of over-growth, placed the rural consumer in the most unenviable position more so as the system has been legalised as the only one open to him. In fixing the sale rate of the Muffasil consumer Control Department has taken into consideration the factor of—

(*i*) Freight ;

(*ii*) Local Taxes ;

(*iii*) Wholesale (K. C. P. S & Store HQs) ;

(*iv*) Loading and unloading ; and

(*v*) Profit.

In the break-up of the difference furnished to the Committee between the sale rate of Control Department for sugar and salt and the selling rate to the Muffasil consumer the element of freight varies *inter se* for the same period as Re. 1/8/- per maund has been included for sugar throughout the years 1949-52 while in the case of salt it varies between Re. 1/7/- and Re.-/15/- per maund. Visibly the element of freight has been fixed without due and careful regard to the actual charge on freight as distinguished from the Control rates which are to be regarded as the ceiling limits, and are in the generality of cases much higher than are obtainable in the course of normal competition. The approximately correct estimate of the total excess charge made on the Muffasil is not capable of being calculated though there is no doubt that it could be considerably slashed.

(*ii*) Local taxes charged are as due under the local bye-laws.

(*iii*), (*iv*) & (*v*) Loading and unloading charges are not separately paid to the city dealer and the difference allowed to him between the issue rate of the Control Department and the authorised sale rate is supposed to cover it. Apparently this charge allowed to K. P. C. S. is extraneous. Dealers' commission whether wholesale or retail is only another name for profit and the inclusion of both is redundant as also wholly unmaintainable in social or even in economic justice. Apart from the capacity of the local purchasing power, some code has to regulate the profit element. Taking an average charge of annas two for loading and unloading also as virtually commission, the rural population has been pressed down by a weight of over Rs. 8 lacs judged by the standard of element allowed to the city dealer, besides the proportionate burden of the profit of Rs. one crore made by the Control Department the impact of the natural disadvantage of distance from Base godown to the point of destination in the interior of the country and the local tax. The Co-operative Organisation is essentially one of such which has to deal with and occupies the position of offering direct constant service to the public. In the implementation of control measures the Co-operative has fed itself on the too scant means of the average peasant and has by doing so prevented the availability of the essential goods on easier terms in the Muffasils or at least on a parity with the city consumer. This has reacted not only on the standard of living but also on the opinion, the Muffasil should rightly hold as to how far the Government is alive to its responsibility of providing maximum comfort within their means. This has large obvious implications both economic and political.

53. Total profits made by the Control Department in rationing sea salt, sugar and cloth are as below :—

		Rs.	
Salt	..	12,73,169	(Rock salt kept out as having insignificant margin).
Sugar	..	26,20,378	
Cloth	..	36,77,599	
	Total ..	75,71,146	
Plus freight excess	..	33 84,495	
	Total ..	1,09,55,641	

54. *Specific allegations against Co-operative Stores.*—The Committee shall briefly refer to a few of the grievances of the people relating to supply and sale of controlled commodities by the Co-operative Stores :—

(*i*) It was generally complained before us that best portions of essential commodities were selected at various stages whether it was Supplies Department, K.P.C.S., District Co-operative or Tehsil Co-operative Union and taken out and sent to black-market by the workers of these bodies and only inferior stuff trickled down through these organisations and reached the village shops. Even the village salesman and accountants had their bit by making the last and final selection of good stuff and giving it to the adjoining shops for sale in the black-market and retainig the most inferior stuff in the shops for the poor zamindars who would come to them and be refused supply many a time before they could actually get it.

(*ii*) It was generally complained that influential members of the Stores and the influential persons in the village took away all good and useful cloth from the Stores for their own use and for the use of their friends and left inferior things for being sold to the general public. At one place the witnesses said that they were obliged to purchase *dhotis* for use as a sort of cover over the head of their women-folk and the best cloth they were able to get from the Store was no better than that used by Pandits as a loin-cloth.

(*iii*) It was also complained that the Co-operative Stores sold privately in the black-market the controlled commodities and that the responsibility for black-market was that of these Stores alone.

(*iv*) At some places a new disclosure was made by the witnesses. It was alleged that the controlled commodities were not delivered on payment of money but in exchange of food-grains, the result being that the Store recovered price much higher than the controlled price by barter system and sold foodgrains at exorbitant prices.

(*v*) It was alleged that they were forced to purchase Italian salt which was more expensive, the sale price of sea salt being Re.-/4/6 per seer and that of the Italian salt being Re.-/7/- to Re. -/7/6 per seer. It is understood in this connection that because the Government had purchased rock

salt and were keen to dispose it of instructions had been issued by the Supplies Department that consumers should be allowed their quota of salt at 50-50 basis so far Indian salt and rock salt were concerned. The complaint in this connection was that whenever a consumer in Muffasil went to a Co-operative Store for his quota of salt he was told that Indian salt had already finished and the only salt available in the Store was rock salt and if he wanted it he could take it at Re./7/6 a seer. If he refused to buy Italian salt the only alternative for a consumer in such a case who needed salt for daily consumption at home, was to go to a black-market shop.

(*vi*) It was alleged that even though cloth, salt and sugar were exclusively dealt with by the Stores a large quantity of these was available everywhere with them private traders and that the same had been got by them from the Stores in the black-market. This could be possible because of the ineffective check of any departmental agency over proper accounting of issues recorded in books maintained by the Co-operative Stores. In this connection the Committee examined the sale register of Multi-purpose Society Gundsar Singh in Niabat Gandarbal on the 9th Baisakh, 2010. The entries in the sale register of Italian salt mostly had thumb impressions upto 20th of Poh, 2009, but they were mostly absent after that date. The thumb impressions also did not look above suspicion. The other register was from 1st Baisakh, 2010, in regard to other commodities but the sale entries had no thumb impressions or signatures except against a few entries of 8th Baisakh. The inspection register showed that the books had been examined at least once every month and sometimes more than once by officers of the Co-operative Department but their inspection was confined to books alone. They never took the trouble of verifying if the commodities shown as sold to particular persons were in fact sold to them. At some places the Committee noticed all kinds of shops working side by side, one that of the Co-operative Stores and the other dealing separately with commodities not under control but also having stocks of controlled commodities. In some cases if one shop was run by the father the other was run by the son as a representatives of the Co-operative Store. In the absence of any effective check no reliance can be placed on the record maintained in the form of books showing receipts, issues and acknowledgements of consumers in the books and this must be responsible for the availability of controlled commodities in the black-market. This was put to the Deputy Registrar Co-operative Societies Kashmir when he appeared before us and he

could not satisfy us even in theory about the effectiveness of any check in this direction prescribed by the Department.

55. The above mentioned charges levelled against the Stores in general almost everywhere are very grave. The other grievances related to the details of the working of the Co-operative Stores affecting the convenience of the people :—

(*i*) It has, for instance, alleged that the contrel shops remained open from 10 A.M. to 4 P.M., and these are the hours when the zamindars were not generally free.

(*ii*) It was alleged that if a person died late in the afternoon or on a holiday it was difficult to bury him that day because due to the shop being closed, cloth for his shroud could not be available.

(*iii*) It was also said that at places no shop existed within a distance of five or six miles and it caused much inconvenience and trouble to people to cover such long distances for making petty purchases.

(*iv*) There was another grievance of the zamindars that they could not get small quantities below a certain minimum from controlled shops and sales on credit were absolutely unknown.

(*v*) Lastly it was pointed out that these shops remained closed almost everywhere from one week to ten or twelve days towards the end of Chet, 2009, because they had to do stock-taking and accounts with the result that the people had to resort to black-market and to pay black-market prices to private traders who had got these commodities from the Stores themselves.

56. As already stated the Stores not only manage the wholesale business but also the retail business. They have got their godowns at a number of places for whole sale and retail business ; loading and unloading takes place at a number of places. Profit on wholesale and retail sales are also charged. There is yet another matter. The Co-operative Stores have their own transport also. They purchased vehicles and registered them as private carriers and, therefore, they could carry only their own goods and not goods of other persons. The result was that while transporting their goods from one place to another they had to perform the return journey without

any load. It has been stated by the Deputy Registrar, Co-operative Societies, Srinagar, in his memorandum that "their vehicles suffered a loss of Rs. 3 per trip because of the above restriction". The Commitee fail to understand why in spite of these difficulties the Stores had their own transport vehicles.

57. It may be added here that, as was but natural in the case of a monopoly, the Co-operatives have throughout made huge profits even after allowing very handsome allowances to some of their workers. According to a statement filed by the Deputy Registrar, Co-operative Societies, Kashmir, 14 Stores have in a period of four years from 2005 to 2008 earned a net profit of Rs. 11,30,510. It should be of interest to the Government to note as to how these huge profits have been utilised by these Co-operative Stores. Whether these have been disposed of strictly in accordance with the Co-operative Societies Act under which these Stores are expected to work or not, should be a matter for the Government to investigate.

58. From the above it is clear that so far as Kashmir Province is concerned the lot of the people of this Province on the economic side is much worse compared to that of the people of Jammu Province. In the Jammu Province generally, excluding of course Poonch and Kishtwar, all the thirgs are available at much cheaper prices than those obtaining in Kashmir Province. The consumers in Jammu have to pay very little on account of transp9rt from the rail-head. It is Re. 1 per maund from Pathankot to Jammu and as against this a consumer in Kashmir has to pay in addition Rs. 5 per maund as the charges of transport from Jammu to Srinagar. Besides, loading and unloading takes place at a number of places involving additional cost and because of the long distance from Jammu to Srinagar there is likelihood of some wastage. Added to this is the fact that in the Muffasils the distribution was centered in the hands of the Co-operative Stores who added their own percentage and overhead charges. All these things contribute to much higher prices in Kashmir Province as compared with the prices in Jammu Province.

Cloth.

58. (*a*) The Committee may now refer to a few facts relating to the working of controls. The system prevailing in regard to cloth is that the Supplies Department gets cloth from Indian through the Supply Officer, Bombay

The only item of cloth not under control here is hand-loom and power-loom cloth whereas only 20% of coarse and medium cloth is under control in Jammu. In Kashmir every variety of mill-made cloth, fine, superfine, coarse and medium is under control. The issue price of cloth in Kashmir Province ex-godown is 25% over ex-mill price and retail price is 34% over ex-mill price. It may be added here that under a recent Government Order the ex-godown issue price has been reduced from 25% to 21% over ex-mill price. It was a matter of great surprise for us to learn that a temporary premium of 6% had been added to it with effect from 14th Maghar, 2009. In Jammu Province the Government premium on cloth was 2% but in Kashmir it has been 4½% and to this 6% had further been added. The premium earned by the Department on the sale of cloth in Kashmir during three years 2006 to 2008 is as under:—

		Rs.
For the year 2006	.. ..	6,08,201
For the year 2007	.. ..	12,76,752
For the year 2008	.. ..	6,51,481
	Total ..	25,36,434

This will show that the Department has made considerable profit on the sale of cloth in Kashmir Province. As already stated an additional premium of 6% had been temporarily imposed with effect from 14th Maghar, 2009, and the reason given by the Controller of Supplies Kashmir, for this temporary increase in premium was that the Department had suffered a loss on account of the accumulation of unsaleable cloth for a number of years; and this additional premium had been imposed to make good the loss thus suffered.

59. The Controller of Supplies in reply to a question stated that the cloth that was unsaleable at the end of S. 2008 was of the value of 4 lacs. It cannot be denied that it is a huge stock that is unsaleable. We asked the Controller Supplies to let us know who was responsible for indenting such cloth as was unsaleable. His reply was that they sent indents of the cloth required to the Supply Officer Bombay and that in drawing up the indent Co-operative Stores who are the distributing agents and also the dealers were consulted. He

further mentioned that some of the cloth purchased by the Supply Officer Bombay was not according to their indents but he could not say why it was so. He stated that probably the Textile Commissioner there in Bombay may have allotted such kind of cloth to the Supply Officer. From his statement it appears that the cloth which was not according to the indent was not more than one to 1½%. He stated that the cloth was not bad but its price was rather high and that was a reason why it was not saleable in the market. The Deputy Registrar Co-operative Societies on the other hand stated that the Co-operatives were not consulted before but were consulted for the first time in the month of Assuj, 2009. The Director General Rural Departments also stated that the Co-operatives were consulted for the first time in 2009 and never before. The situation is rather intriguing. It is not for us to apportion the blame for selection or indenting or purchase of such varieties of cloth as are not in demand and are unsaleable. Whether the responsibility lies on the Supply Officer Bombay or on the Controller of Supplies Kashmir or on the Co-operatives, it is not for us to decide but the fact remains that due to incompetency, or lack of care of some officers huge stocks of unsaleable cloth have accumulated and to make good this loss the burden has quietly been shifted to the consumer of other varieties of cloth, which to say the least is unfair and against the canons of justice and equity.

60. In the case of a private trader if a certain stock remains unsold he sells that stock on a reduced price and meets the loss out of the profits he gained from the sale of other stock. In this case the Government had huge profits from the sale of cloth and it was not justified in levying an extra 6% on the price to make up the loss of unsold cloth. The unsaleable cloth should have been auctioned publicly and the loss incurred should have been set off against the profits already accrued from the sale of cloth. The fact that additional 6% was levied on the price shows unmistakably that the consumers are entirely at the mercy of the officers of the Supplies Department who can vary the prices of the commodities whenever they like in order to made good the loss suffered. If the selection of cloth and its sale had been in the hands of the private trader it was not possible to have such state of affairs. It is, therefore, necessary that the levy of 6% temporary premium be abolished forthwith, if not done already.

61. Another suggestion that the Committee would like to make in this connection is that the system of making

purchases through the Supply Officer Bombay should be examined very closely. It was generally alleged that the cloth in Bombay sells at prices much less than the ex-mill prices and in the manner in which we make purchases through the Supply Officer we are paying the stamped ex-mill prices. The Committee would suggest that the purchase of 20% controlled cloth should be left in the hands of Cloth Syndicates whose concern it would be to see that they purchase at the prevailing prices in the market and not necessarily at the ex-mill prices. The Supply Officer should have nothing to do with it. The Committee would suggest decontrol of the remaining 80% of the coarse and medium cloth and all fine and superfine varieties in Kashmir subject only to a ceiling price.

SUGAR.

62. In the break-up of the price of sugar as given by the Director General, Food and Supplies, in his memorandum the ex-mill price of sugar is shown as Rs. 35/8/- per maund, the landed cost at Jammu Rs. 37/5/-, the landed cost at Srinagar Rs. 42/6/- and adding to it Rs. 5/2/- as permium, the issue price from supplies godown is Rs. 47/8/-. This is the wholesale price, and uniform retail price by the Co-operatives and Depot—holders in the city and Muffasils was Rs. 50 per maund or Re. 1/4/- per seer. The commission allowed on sale of sugar is Rs. 2/8/- per maund which includes transport from godowns at Srinagar and other incidental charges. It is interesting to note in this connection Re. 1/7/- was the retail sale price of sugar per seer in the city of Srinagar upto 1st Baisakh, 2009, and from that date onwards it was Re. 1/4/- per seer. Now under Government Orders the price of sugar has been reduced to Re. 1/-/6 per seer with effect from 1st Baisakh, 2010. The break-up of the reduction of Re. -/3/- per seer in the price of sugar from 1st Baisakh, 2009, as stated by the Controller of Supplies is Re. -/2/- on account of Flood Relief Fund and -/1/- out of Government premium. He has further stated that a further reduction of Re. -/3/6 per seer more with effect from 1st Baisakh, 2010, has been accommodated from the Government premium and dealer's commission. These facts will show that fixing of price has been practically at the discretion of the authorities of the Supplies Department. If a reduction of Re. -/3/6 per seer could be made from 1st Baisakh, 2010, why could it not be made from 1st Baisakh, 2009, when a reduction of Re. -/3/- had been made. A number of witnesses stated that the price of sugar at Delhi was between Re. -/10/- and Re.-/11/- per seer which would mean Rs. 25 to Rs. 27/8/- per maund.

63. The Committee may refer to one interesting fact which has come to its notice in the course of recording evidence of witnesses in Kashmir. The Ravenscroft Limited, a sugar-canning factory in Srinagar, had some difficulty in getting sufficient stocks of sugar. On its request the Industries Department intervened with the Supplies Department and obtained permission in favour of the Company for direct purchase and import of sugar from India on its own account. The factory after importing sugar on its own brought to the notice of the Industries Department that it had in making private purchase of sugar in India made a saving of Rs. 15 per maund. It has really been a startling revelation to know that a saving to the extent of Rs. 15 per maund was possible in the case of private purchase and import of sugar in Srinagar.

64. An expert witness who appeared before us stated that the maximum ex-mill price of sugar could not be more than Rs. 27/8/- and he accordingly attacked the very basis of ex-mill price as stated in the break-up of overhead charges given by the Director General, Food and Supplies. The Committee cannot doubt the correctness of the statement of this witness knowing that he had personal knowledge of the accounts etc. of a certain sugar mill in India which happens to be one of the mills from which we lift our sugar quota. It is not disputed that for arriving at the sale price of sugar—wholesale or retail—the ex-mill price as actually paid by the contractor was not verified by the Supplies Department on the basis of invoices. This method of fixing the sale price is apparently open to serious objection and needs investigation by the Government.

65. The Committee is, therefore, at a loss to understand as to how various officials of the Control Department while giving the break-up of figures arriving at the sale price of sugar have placed the ex-mill price as Rs. 35/8/-. The only inference one can draw is that either the ex-mill price is fixed by the Control Department without examining or checking the original invoices of the mills that have sold sugar to the contractor, or, as insinuated by an expert witness, an inflated ex-mill price has been shown in the invoices. Yet another possibility is that inferior quality of sugar to that contracted for is selected by the contractor from the mills at prices lower than the ex-mill price fixed with him by the Department. And perhaps this alternative explains the complaint of the consumer about the supply of inferior sugar to them.

66. As already stated above the Government has been charging a premium of Rs. 5/2/- per maund on sugar and in justification of this heavy permium the Director General in his memorandum has stated as follows :—

> " The difference between the landed cost and the issue price is received as Government premium which is set off against loss in the sale of salt."

This statement of his necessarily calls for an inquiry as to the loss suffered on the sale of salt and the profits made on the sale of sugar. The Committee feel constrained to remark that the above statement in the memorandum is not so much incorrect as it is misleading. The statement would lead a casual reader to think that there has been loss in the sale of salt from the very beginning and, therefore, as a measure to set off against that loss a higher rate of premium, namely Rs. 5/2/- had been charged on sugar. The facts are not as they are made to appear. The Director General was asked to let the Committee know the total amount of loss suffered on the sale of salt in Kashmir Province during the years 2006, 2007 and 2008. His reply is as follows: :—

> " During the years 2006 to 2008 no loss has been suffered on the sale of salt in Kashmir. With effect from 2009, however, uniform issue price of salt has been fixed for all places in the valley and as a result of this the Government is incurring a loss of Re. 1/2/- per maund."

The Controller of Supplies Kashmir who had been asked to furnish an account statement of the profits earned for the years 2005 to 2008 has sent a statement in regard to profits and loss of the essential commodities. In the letter forwarding the statement of profits and loss he has stated as follows :—

> " The figures are approved by the audit except for salt to end of 2007 and the proformas pertaining to all these commodities pertaining to 2008 are subjct to audit check. The salt is being imported for distribution by the Trade Agent Pathankot and Director General, Food and Supplies, Jammu, to whom we afford credit at Rs. 3 and Rs. 5/4/- per maund respectively. On these basis the enclosed proforma for salt have been prepared by this office."

It will be interesting to note that the Supplies Department of Kashmir has earned considerable profits from sale of salt during the years 2005 to 2008 as is evident from the proforma accounts for salt sent by it. The statement of gross profit

from sale of salt (subject to audit) is as follows: :—

		Rs.
For the year 2005	.. ..	4,38,822
For the year 2006	.. ..	5,15,365
For the year 2007	.. ..	5,02,831
For the year 2008	.. ..	3,16,027
Total	..	17,73,045

67. The above statement will show that the Kashmir Suppiies Department has made a gross profit of Rs. 17,73,045 on the sale of salt in Kashmir during the last four years and that, therefore, the ground alleged for imposing a high premium of Rs. 5/2/- per maund on sugar, namely to make good the loss suffered by sale of salt, is unfounded. During the last four years profits were regularly made from the sale of salt and yet a high rate of premium continued to be charged on the sale of sugar. This would show, beyond any manner of doubt, that issue price of sugar in Srinagar has been unnecessarily and unjustly inflated to the disadvantage of the consumer. The result of this action is clear. Whereas sugar sold in Jammu at Re. -/14/- a seer in retail it sold in Srinagar for Re. 1/4/- a seer during the corresponding period, *i.e.* at over 40% extra. The Committee need not discuss it further as it proposes entire decontrol of sugar and its free purchase from India and its free and unrestricted import, transport and sale in Kashmir Province.

68. It would perhaps be interesting to know the gross profits that have been earned from the sale of sugar in Kashmir Province for the years 2006 to 2008 and the figures are given below :—

		Rs.	a.	p.
Gross profits for the year 2006	..	5,57,743	12	6
Gross profits for the year 2007	..	7,63,125	13	0
Gross profits for the year 2008	..	8,60,634	1	9
Total	..	21,81,503	11	3

SALT.

69. Salt is the most essential commodity next only to food. It is this commodity which is consumed not only by every human being wherever residing and of whatever status but also by cattle. It is a matter of surprise that this commodity has been treated by the Supplies and Transport Departments at part with non-essential commodities like cement, iron and steel in matters of freight and other overhead charges. It does not appear to have ever struck these authorities to reduce the overhead charges on salt to the minimum possible so that this essential commodity might be available at as little a cost as possible.

70. The Committee should have expected that not only the Transport Department should have reduced the freight charges on a commodity like salt as done by other carriers in India, for example railways, but also that the Government on its own should have seen its way to either abolishing the customs duty on this commodity altogether or charging it only at a nominal rate in the interests of the public at large. Abolition of customs duty on salt altogether would have amounted to foregoing a revenue to the extent of five to six lacs of rupees annually.

71. In regard to purchase, import and sale of salt in Kashmir Province it is proposed that the same system as recommended for Jammu be adopted for Kashmir also with necessary safeguards as already mentioned.

CEMENT, IRON AND STEEL.

72. With regard to cement, iron and steel the system is the same as it is in Jammu and the Committee make the same suggestions for Kashmir as it has made for Jammu.

KEROSENE OIL.

73. Kerosene oil was the only commodity which was decontrolled in the Kashmir Province and most of the witnesses in support of their suggestions for general decontrol deposed before the Committee that after kerosene oil was decontrolled it sold at much lower than the ceiling price and that it was available throughout the year without any difficulty. The effect of this decontrol was advantageous to the people and this was corroborated by the fact that the

Government never found it necessary to reimpose control on kerosene oil.

74. There are so many things which are not controlled and no complaint has been received in regard to scarcity in the supply of these commodities in winter months which would show that the absence of control does not always lead to inflation of prices provided of course the supply is plentiful.

75. Some of the witnesses who appeared before the Committee stated that the Supplies Department should not have made any profit but its mission should have been to render service to the people without incurring any loss or making any profit. According to facts and figures mentioned in paras 45 to 53 preceding it will appear that the Supplies Department has made huge profits, not to speak of incurring any loss. Even according to the figures given by the Supplies Department the following profits are shown to have been made in Kashmir Province for the years 2006 to 2008 on various commodities:—

		Rs.	a.	p.
Cloth	.. .. ..	25,36,434	0	0
Sugar	.. .. ..	21,81,503	11	3
Salt	.. .. ..	13,34,223	0	0
	Total ..	60,52,160	11	3

The premium received by the Jammu Supplies Department for the same period on sugar and cloth is as under :—

		Rs.	a.	p.
Sugar	.. .. ..	4,85,107	8	3
Cloth	.. .. ..	5,09,616	14	3
	Total ..	9,94,724	6	6

This would show that whereas the Supplies Department earned a premium of Rs. 9,94,724/6/6 in Jammu Province it earned a profit of Rs. 60,52,160/11/3 in Kashmir Province for the corresponding period. These calculations would show that the above contentions of various witnesses are not unfounded.

Ladakh District.

76. The question of controls in Frontier District was put to the witnesses who appeared before the Committee in Ladakh. Witnesses from Kargil Tehsil were present there. Whereas the representatives of Kargil wanted entire decontrol and normal trade channels to function, those of Ladakh wanted the present system of control to continue. The choice of Kargil representatives was made perhaps because of :—

(*a*) their saving customs duty which is refundable to them on commodities which are imported direct from India ;

(*b*) Shorter distance as compared to Ladakh from the source ; and

(*c*) availability of these commodities on competitive and, therefore, much lower prices in India.

77. As regards Ladakh their main anxiety was that the present system of Government arranging adequate supplies of commodities, namely cloth and sugar for that Tehsil should continue to be the responsibility of the Government and they wanted that once they had adequate and assured supplies in Ladakh these may be distributed for free trade within the Tehsil itself after having fixed the ceiling rates. Apparently they are to gain by this because they are at present receiving a subsidy and they hope that this subsidy will continue. During the course of evidence it was made perfectly clear to them that whatever subsidy the Government was giving to them at present in essential commodities should not be taken by them as a permanent feature. If the Government decided upon the policy of decontrol they would not divert a portion of their profits at present earned by them by trading in essential commodities to Ladakh and call it a subsidy for Ladakh. In that event any subsidy that the Government may decide to grant shall have to be met from the general revenues. The Committee is sure that this matter will receive serious consideration of the Government and that an independent decision will be taken for controls in Ladakh taking in view the special conditions prevailing there. Controls in Ladakh apply mainly to cloth and sugar as fortunately to the Frontier District does not depend upon salt imports from India as they satisfy their requirements from the lake salt obtained from the border of Tibet.

Fuel Control.

78. Fuel consumed in the city of Srinagar is under partial control. Varieties which are extracted from the forests or are available from some other Government source are under control as they are sold at prices fixed by the Government and are rationed. Varieties obtained from private sources are not controlled either in price or in quantity. Partial supply on controlled rates is also made in Muffasils towns of Anantnag, Sopore and Baramulla. There being acute deficiency of fuel wood species, major portion of the supply is made by felling of timber trees of fir at considerable loss to the Government which is estimated to be four to five lakhs of rupees per annum. The Committee is told that if fuel is decontrolled absolutely not only the prices will shoot up but there will be scarcity of fuel to the deteriment of the consumer. In these circumstances the present system should continue.

Miscellaneous.

79. A complaint was made at Shopian by traders in fruit against the monopoly at present held by a Co-operative Society in Shopian for extraction and manufacture of fruit boxes that the price charged for the fruit boxes was high and the fruit boxes supplied were not of standard size and quality. On the other hand the representatives of the Co-operative Society claimed that the labour, *i.e.* the sawyers who were the members of this Society received much better wages than they would receive from any private individual contractor.

80. The Committee is not in favour of monopoly of any type and would, therefore, recommend to the Government that the supply of fruit boxes should also be left open to competition. Even in such an arrangement the interests of the labour, which seems to be the object in giving monopoly, can be safeguarded by making a condition precedent in tenders for sale of such contracts. It should be open to the Co-operative Societies as well to compete with other contractors.

SUMMARY OF RECOMMENDATIONS.

Jammu Province.

1. Investigation into allegations made before the Committee regarding the purchase of cloth through the Supply Officer, Bombay.

2. Giving a free hand to the Cloth Syndicate, Jammu, if necessary moving the Textile Commissioner, Government of India, in the selection of the Mill and the varieties of cloth they would purchase.

3. Issue of licences to cloth dealers freely.

4. Restriction regarding the issue of licences for the sale of decontrolled cloth to be removed.

5. Renewal fee for licences issued for controlled cloth to be reduced from Rs. 5 to Rs. 2.

6. To encourage import of yarn directly from India.

7. Salt to be decontrolled entirely and only those restrictions as obtain in India to be placed.

8. If the Government of India do not relax the present restriction on inter-state movement of salt nominees for lifting the quota of salt to be appointed not only district-wise, but also Tehsil-wise.

9. There should be no restriction on import of sugar and every dealer should be allowed to import any quantity he may like.

10. The Government of India or the Cement Marketing Company to be approached for appointing more than one agent, particularly in Kashmir, who should confine their activities to imports only and should supply cement to retail dealers to be appointed by the Supplies Department both in the city and Muffasils for distribution of the same. This will apply to Iron and Steel also.

Kashmir Province.

11. The Government should accept and implement the policy of decontrol as in the case of Jammu Province with necessary safeguards by itself stocking salt and sugar for a period of four months of winter or getting adequate guarantee from the business class for maintaining stocks adequate for four months of winter.

12. As suggested in the case of Jammu, the cloth Syndicates in Kashmir to have a free hand in regard to purchase of 20% Coarse and medium controlled cloth and the Supply Officer to have nothing to do with it.

13. 80% coarse and medium cloth and all varieties of fine and superfine cloth to be decontrolled subject to ceiling prices.

14. Sugar should be entirely decontrolled and its purchase, import, transport and sale in Kashmir unrestricted.

15. The present system of control on fuel should continue.

16. The contract for supply of fruit boxes should be left to open competition, safeguarding the interests of labour.

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TRANSPORT CONTROL.

TRANSPORT CONTROL.

1. We now take up the question of Transport Control including petrol rationing. The Transport Controller has submitted a lengthy memorandum in regard to this question.

2. Question No. 10 of our questionnaire dealing with the transport control runs as under :—

> "What has been the effect of transport control including petrol rationing on private enterprise in regard to transport service and trade in general with consequent repercussions on the consumer ? "

The Transport Controller has stated in his memorandum as follows :—

> "The expression transport control in question 10 of the questionnaire in its relation to the operation of private transport service and of the trade in general is rather vague. There is no control on transport in the sense that the private entrepreneur is not subject to any determined restrictions or encumbrances. It is true, however, that in order to secure proper regulation of the transport service in the State a certain system for the registration of new vehicles, their distribution on various routes with a view to securing continuity in the flow of essential commodities and comfort for passenger traffic has been followed. This system was in existence before 1947 and continued in force with certain modifications to suit the requirements of the changed conditions. The system is actually regulated by the terms of the Motor Vehicles Act of 1998 and the statutory power is exercised by the Traffic Superintendent on his behalf as is the procedure in other States in India also."

The Transport Controller has given a detailed history of the circumstances which led the Government to having a Transport service of its own. He has referred to the various arrangements that were made by the Government after the raid of the State in October, 1947, to meet the situation created thereby in the transport service of the State. As stated by him the transport service in the State was completely paralysed due to raids and it was a difficult task to overcome its effects. After referring to a certain arrangement he has stated in the memorandum that :—

> "It was, however, obvious that this arrangement could at best be a mere stopgap one and could not be relied upon as substitute for a permanent system. Arrangement had to be made in order

to secure self sufficiency in the field of transport and to create an organization which could ensure a regular flow at reasonable charge of all essential commodities into the State. It was also necessary to safeguard against the very unhealthy possibility of exploiting, to the disadvantage of the consumer, the fact that the State had only one link with the outside world. In this connection it also has to be mentioned that the Government has been committed like other State Governments in India to nationalization of the transport industry in accordance with the all-India Policy. Inspite of this no steps have been taken to oust the private enterpreneur from the field of the transport making it clear to the transporter that the process of nationalization will be gradual and full cognizance of all the aspects of the problem will be taken before a final decision is given on the subject. Keeping the above factors in view the Government naturally decided to purchase a fleet of vehicles which no private transporter could do in the conditions of insecurity and run a dependable transport service for certain limited purposes and on a particular route leaving a wide field to the private sector. It was under these circumstances that the Government advanced a loan and undertook upon itself the movement of essential commodities between Pathankot and Srinagar which started working in June, 1948.

3. In order to properly appreciate the contents of the memorandum submitted by the Transport Controller it is necessary to refer to the law relating to the administration of Motor Vehicles in the State.

4. The first enactment on the subject called Motor Vehicles Regulation came into force in S. 1966. This Regulation was repealed by the Motor Vehicles Regulation No. 1 of 1975 which remained in force until repealed by the present Motor Vehicles Act No. XII of 1998. This Act did not come into force atonce but was to come into force on such date as the Government might by notification appoint in this behalf. Under Order No. 216-C of 1946 dated 23rd March, 1946, the Government was pleased to appoint 1st Baisakh, 2003, as the date on which the said Act except Part VIII was to come into force Part VIII was to come into force on 18th Har, 2003. Under the said Council Order rules under this Act called the Jammu and Kashmir Motor Vehicles Rules were also sanctioned. The Act which came into existence in 1998 was enforced on 1st Baisakh, 2003 and under the Adoptation of Laws Order, 2008, published in the Government Gazette dated 13th Katik, 2008, a few formal amendments were made in certain sections of the Motor Vehicles Act of 1998. The Act was further amended by Act No. XVI of 2008.

5. One important amendment was that the definition of road certificate as given in Section 2(34) was deleted and instead the word "permit" was defined under Section 2(25). It was further enacted that for the expression "road certificate" wherever occurring the word "permit" shall be substituted. It may be mentioned here that in spite of the fact that the expression "road certificate" has been replaced by the word "permit" the former expression continues to be used generally. The Act of 1998, it may be remarked is based on the Motor Vehicles Act of 1939 A. D. in force in India. Our Act is almost a verbatim copy of the Indian Act except for certain provisions which will be referred to at the proper place.

6. The second part of the Act deals with licensing of drivers of Motor Vehicles. The licence is to be issued by the Licensing Authority. The Licensing Authority is not named in the Act but this term is defined in Section 2(14) to mean an authority empowered to grant licences appointed by the Government.

7. Part III of the Act deals with Registration of Motor Vehicles, and it is provided that no person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the motor vehicle to be driven in any public place or in any other place for the purpose of carrying passengers or goods unless the vehicle is registered in accordance with this Part.

8. Part IV deals with control of transport vehicles. Under the Motor Vehicles Rules the Inspector General of Police was appointed as the Licensing Authority and also as the Registering Authority. This would show that the Motor Vehicles Act does not appoint any officer by virtue of his office as the Licensing and Registering Authority but authorises the Government to make rules for the appointment and functions of such authority and that the Government has in the rules made under the relevant provisions of the Act appointed the Inspector General of Police as Registering and Licensing Authority.

9. As a consequence of World War II and overall shortage of petrol imports in India issue of petrol was rationed in the State under the Motor Spirit Rationing Order of 1998 published in the Government Gazette of 29th March, 1942. The Inspector General of Police continued to function as Licensing and Registering Authority and also the State

Rationing Authority until Council Order No. 100 of 1948 dated 30th April, 1948, was passed by virtue of which the Transport Controller was invested with the powers of the Inspector General of Police under the Motor Vehicles Act and Motor Spirit Rationing Order. It would thus appear that from 30th April, 1948, the Transport Controller became the Registering and Licensing Authority under the Motor Vehicles Act and also the State Rationing Authority under the Motor Spirit Rationing Order.

10. In June, 1948, the Transport Department of the Government purchased its own fleet of vehicles by borrowing money from the Government and the administration of this Transport Department was vested in the Transport Controller. The Transport Controller therefore became :—

(1) The controlling head of the Government Transport Department ;

(2) The State Rationing Authority in respect of petrol ;

(3) The Registering and Licensing Authority ; and

(4) The head of the Traffic Control Department.

Part IV of the Act dealing with control of transport vehicles is important and relevant for purposes of our inquiry. Sub-section (1) of Section 42 provides that "no owner of a transport vehicle shall use or permit the use of the vehicle in any public place, save in accordance with the conditions of a permit granted by the Registering authority authorising the use of the vehicle in that place in the manner in which the vehicle is being used." Sub-section 3 of the same section exempts from the operation of the above provision any transport vehicle owned by or on behalf of the Military Department or the Government.

11. Section 43 gives power to the Registering Authority to control road transport and fix maximum or minimum fares or freights for stage carriages and public carriers to be applicable throughout the State or within any area or any route within the State.

12. Under Section 56 the Registering Authority may, after consideration of the matters set forth in Section 55 limit

the number of transport vehicles to ply in any specified area or on any specified routes within the State.

13. The material provisions relating to the inquiry before us have been briefly mentioned. As already stated a motor vehicle is first to be registered and a certificate of registration obtained for it. The registration of motor vehicles under Section 22 cannot be refused by the Registering Authority except on conditions mentioned in Section 27, namely that the vehicle is mechanically defective. When a transport vehicle is registered under Section 22 it cannot thereby start plying in a public place. Before such a vehicle can be used or permitted to be used in a public place the owner thereof must obtain a permit, under Section 42. The Registering Authority has the power to limit the number of vehicles to ply on a particular route or routes or in any particular area. These powers mentioned in this Part though very wide and extensive cannot be used arbitrarily as the law lays down definite matters which have to be considered before a permit is granted or refused. The Registering Authority has also under Section 43 the power to control road transport and to fix maximum or minimum fares and freights for stage carriages and public carriers.

14. Our Act, as mentioned above, is based on the Indian Motor Vehicles Act of 1939 but there are certain differences between the provisions of our Act and the Indian Act in some important respects. So far as the licensing of drivers of motor vehicles and the registration of motor vehicles provided for in Part II and III are concerned, the provisions are alomst similar but when we come to Part IV dealing with control of transport vehicles we find important differences in our Act and the Indian Act. Under Section 42 of our Act it is the Registering Authority who is empowered to grant permits but it is not so in the Indian Act. Under the Indian Act the Provincial Transport Authority or Regional Transport Authority grants the permit. This would show that whereas the power of issuing permits in our Act is vested in the Registering Authority, in the Indian Act the permit can be granted or countersigned by a Regional or Provincial Transport Authority and both the Regional and Provincial Transport Authorities consist of such number of officials and non-officials as the Provincial Government may think fit to appoint. In other words in the Indian Act the power is to be exercised by a body of persons consisting of officials and non-officials appointed by

the Government and not by any single officer in his individual capacity.

15. The other difference between our Act and the Indian Act is that in our Act the Registering Authority can prohibit or restrict throughout the State or in any area or on any route within the State the conveying of long distance goods traffic by private or public carriers. He can likewise fix maximum or minimum fares or freights for stage carriages and public carriers throughout the State or within any specified area within the State. The powers detailed in Section 43 can be exercised by the Registering Authority after having regard to certain matters mentioned in that section and after having heard the representatives of the interests affected. In the Indian Act the above power under Section 43 of controlling road transport and of fixing maximum or minimum fares and freights for public carriers is given neither to the Registering Authority nor to the Provincial Transport Authority or the Regional Transport Authority but to the Provincial Government alone. The Provincial Government has to exercise these powers, after consulting the Provincial and Regional Transport Authorities concerned. This would show that whereas the power of controlling road transport and fixing maximum or minimum fares and freights is given to the Provincial Government in the Indian Act this power is given to the Registering Authority in our Act. Section 44 of our Act provides for review of orders passed under Section 43 at such intervals of time as may be fixed by the Registering Authority at the instance of interests affected by such orders. It is not clear why the powers under this Chapter which in the Indian Act are exercised by the Provincial and Regional Transport Authority or the Provincial Government were conferred on the Registering Authority in our State. We are of the opinion that the provisions of the Indian Act on these two matters are salutary and are in the interests of the general public. We would, therefore, propose that the provisions of Part IV of our Act should be identical with those of Chapter IV of the Indian Act and that the power of issuing permits should not be with the Registering Authority but with the State Transport Authority consisting of officials and non-officials appointed by the Governmsnt. We are further of the opinion that the powers under Section 43 regarding the control of road transport and fixing of fares and freight should be exercised by the Government in the same manner as is provided for in the Indian Act.

16. Moreover as pointed out above the Transport Controller is firstly the Registering and Licensing Authority and secondly the head of the Traffic Control Department and thirdly the State Rationing Authority in respect of petrol and lastly he is the Administrator of the Government Transport Department which is a concern owning a large fleet of vehicles. The first question, therefore, that arises is whether the combination of such powers in one Officer is proper. In his statement the Transport Controller has tried to explain this position but he has not been able to give a satisfactory reply in regard to having all these functions vested in one person. It is against the laws of natural justice that an officer who administers a transport service on behalf of the Government run on commercial lines should also be invested with powers of administering the law relating to Motor Vehicles. Being the administrator of a transport service he is a party and therefore to invest him with the powers of administering the law in regard to motor vehicles is nothing short of making him a judge in his own case. The combination of these various powers in one person, in our opinion, is unhealthy, improper and deterimental to private transport service and the consumers in general. We are of the opinion that these functions centred as they are in one officer should be separated forthwith. The Transport Controller should have nothing to do with the administration of the Motor Vehicles Act. He must cease to be the Registering and Licensing Authority and the Head of the Traffic Control Department. He should be incharge of the Government Transport Department alone and should act as the Director General or General Manager of that department. Although the Transport Controller stated that he never discriminated against private transporters and that he had been just and fair to them yet as he himself is a party interested in transport business he should not have any power under the Act regulating the transport business.

17. In his memorandum the Transport Controller has stated that according to Motor Vehicles Act and the rules made thereunder it is essential to permit only those vehicles to ply on the State roads as are properly registered. He has further stated that an uncontrolled addition of vehicles of various sorts required for the needs of the community would only create conditions of chaos and confusion. According to him the maintenance of a wise ratio between the new vehicles which are registered, and the old vehicles thrown off the road was necessary in order to have a fleet of road-worthy

vehicles in adequate numbers available at all times. The tendency, therefore, as stated by him, of registering all kinds of vehicles which would be injurious to the interests of the country in the long run had to be curbed. Accordingly under the Motor Vehicles Act and the rules made thereunder the Licensing and the Registering Authority agreed to add additional vehicles to the existing strength only in replacement of old vehicles and a detailed order to this effect was issued by the Transport Controller in the Government Gazette dated 23rd March, 1950. This policy was executed in a manner so as not to cause dislocation or economic distress to the owners of old model vehicles. We have perused the relevant order, the preamble of which reads as follows :—

> "While reviewing the position of registration of vehicles during the current year I am impressed with the figures placed before me by the Traffic Superintendent. The figures also show that all sorts of vehicles, old and new models, have pushed their way into the State and have got themselves registered. This position was also discussed by me with the transporters at the time of the consolidation of all tronsport companies both in Jammu and in Srinagar into one unit and they were also of the opinion that adding further number of vehicles to the present fleets would not be economically sound for them. If the vehicles are allowed to be imported haphazardly at the current rate a time will come when we shall have to face a grave situation because of unemployed vehicles along with their drivers and cleaners. Apart from this consideration if no restriction is placed on the model of vehicles that should only be registered, we may on stock-taking find that our roads are full of such vehicles whose models we are contemplating to condemn and will again create a situation when old model vehicles are ordered to go off from roads."

The order further goes on to say that, "so far as Motor Vehicles Act and Rules are concerned. I agree that the registration of vehicles may not be stopped but I have to look to the economic and other aspects of the matter and, therefore, I do not consider it fair and advisable for transporters to import vehicles in large numbers for which I shall have subsequently neither enough petrol nor route permit to give. As I combine within me both powers of Registering and State Rationing Authority I cannot detach myself from looking at all the aspects of the problem which naturally clash with each other at a certain point."

18. The last sentence quoted from the above order is itself sufficient to show the harm which may result from the combination of powers notwithstanding the fact that an honest and well-intentioned officer may be exercising these powers. The Transport Controller has rightly conceded in the

above order that he could not make an order restricting the registration of new vehicles under the Motor Vehicles Act or the rules made thereunder and it is not therefore understandable how he has said in the memorandum that he had made an order under the Act. Last lines of the order explain why he passed that order, although under the Act he could not do so. He could not detach himself from looking at the problem from quite a different point of view.

19. A reference may be made to the operative portion of the above order to show how the private transporter has been discriminated against. Para 2 of the order lays down that no applications for registration of vehicles shall be entertained by the Traffic Superintendent which are received in his office after 30th Phagan, 2006, except in cases enumerated therein. Out of seven exceptions to the above order three only need be referred to here, which are as follows :—

(*a*) a corresponding vehicle with an existing Jammu and Kashmir number is condemned ;

(*b*) in cases which are covered by special permission of the Transport Controller ;

(*c*) in cases of registration of Government Transport vehicles.

It will be clear from the above that so far as a new private vehicle is concerned it will be registered only in replacement of an already registered and existing motor vehicle. The owner of newly purchased vehicle must surrender an existing old vehicle before he can get his vehicle registered and if he does not own any vehicle which he may surrender he shall have to pay money to some owner to agree to surrender his vehicle for condemnation. The Transport Controller has armed himself with absolute discretionery power by providing that this order would not apply in cases covered by special permission issued by him. Whereas the Transport Controller has prohibited the registration of new vehicles except in replacement of an existing vehicle which is to be surrendered or condemned so far as private transporter is concerned, no such restriction has been placed on the registration of Government transport vehicles, the result being that Government Transport Vehicles can be added and registered without any limit and restriction. This places

private transport service at a disadvantage when compared to Government transport service. Moreover the Government Transport Department can easily sell old vehicles to private transporters and a market for disposal of old vehicles is always available. It has been brought to our notice that the Government Transport Department has been selling its vehicles to private transporters after several years of use and in their case there was no difficulty of registration. If the Registering Authority were different from the Transport Controller the old vehicles of the Transport Depertment would have been on the same footing as the old vehicles of a private transpoter. It may be added here that the order restricting the registration of vehicles is not a legal order and has encroached upon the right of a private person to get a new vehicle registered.

PETROL RATIONING.

20. We now come to the question of petrol rationing. Petrol rationing was started in India during the Second World War and was introduced in the State as well. In India petrol rationing came to an end in the year 1950 but it is still continuing in the State. It is not disputed that the supply of petrol is in abundance and that is why it has been derationed in India The Transport Controller has stated in his memorandum that "with the steady improvement in the general situation the question of petrol rationing deserved to be reviewed now" but he has at the same time said that :—

> "in this connection the following facts have to be specially kept in view :—
>
> (i) Inspite of the completion of the construction of the Pathankot-Srinagar Road, the Province of Kashmir and some areas of Jammu Province cannot be fed during the months of winter. We have, therefere, to build up reserve stocks of petrol in order to feed the local needs with an assured regularity for winter months. The desirability of regulating the issue of petrol for this period of the year becomes obvious. Our difficulty in this behalf is further aggravated by the absence of secure and large storage facilities in these places
>
> (ii) The Motor Spirit Ratining Order also, in an indirect manner, clothes the Licensing Officers with statutory authority to ensure and regulate the plying of the required number of vehicles on different routes. As the Petrol Issuing Authority, he can ensure to tie down a fixed number of vehicles to each one of the routes in accordance with the needs of the areas in which these lie. In order to maintain the advantage of operating a route system effectively some alternative measures shall have to be devised with care so that the Licensing Authority is able to exercise necessary powers for the maintenance of this system after the termination of the Motor Spirit Rationing Order."

21. In his oral statement the Transport Controller has mentioned that he was against derationing petrol.

22. We have given our careful consideration to the grounds advanced in support of petrol rationing. The first ground relates to the difficulty in storing adequate quantity of petrol in Kashmir during winter months. This difficulty, in our opinion, is not insurmountable. When the stocks of petrol are so plentiful it is not difficult to build up adequate reserve stocks for winter months. We have before us the

instance of kerosene oil. When it was decontrolled the concerned companies gave a guarantee to the State authorities to keep available adequate supply of kerosene oil at all times and they adhered to this guarantee. There has been no scarcity of kerosene oil due to insufficiency of adequate stocks. It should be easy to obtain a similar assurance from the petrol companies that they will keep adequate stocks available during winter months. We do not understand as to how mere rationing of petrol has enabled the authorities to keep adequate supply of petrol available in winter months in these areas Mere rationing could not build the required reserve stocks, especially when our State Government has no control over the source. The import and movement of petrol is wholly in the hands of the companies and the only control exercised is that petrol can be sold only on coupons issued by various Rationing Authorities. The availability of petrol during winter months depends on the companies keeping adequate stocks available in Srinagar for local use in winter.

23. The other reason given by the Transport Controller for not derationing petrol is not at all convincing As Registering Authority he had the powers given to him in express terms under Sections 48, 51 and 56 of Motor Vehicles Act to restrict the number of, and attach conditions to the plying of, different kinds of vehicles in specified areas and on specified routes. If he had resorted to these provisions it would not have been necessary for him to utilise the Motor Spirit Rationing Order for operating a route system in an indirect manner as conceded by him.

24. It has been contended by the Transport Controller that petrol is issued liberally to private vehicles and so rationing of petrol does not adversely affect them. If petrol is issued freely and there is no scarcity of petrol it is not clear why emphasis is laid on its being rationed. All the witnesses who appeared before us have stated that petrol should be derationed immediately. It was derationed in India in 1950 and we are of opinion that it should be derationed in the State forthwith. We find no justification whatsoever for continuing rationing. It definitely interferes with the free movement of vehicles which is greatly deterimental to the trade.

25. It gives us great pleasure in placing on record our appreciation of the valuable service rendered by Government Transport Service at a time when chaos was prevailing in the State. Not only we but in fact all the witnesses who deposed

before us have praised the services rendered by this concern all along. At a time when there was no transport, public or otherwise, available to the inhabitants of this country and all means of communication between the State and the outside world had been disrupted it was nothing short of a miracle that this department should have sprung up and grown to its present dimensions discharging its duties to the great satisfaction of all. It has actually rendered very efficient and valuable service not only during the emergency period but even during the present times when normalcy has been restored.

26. So far as the passenger traffiic is concerned it is gratifying to note, and we place it on record, that the Government Transport Department has managed it efficiently and at reasonably fair rates providing adequate amenities and facilities to the travelling public.

27. The only grouse that a consumer could have against the department now that normalcy has been restored is that the freight charges are fixed at high rates and are artificially maitained at that level by stopping open competition between private carriers *inter se* and between them on the one hand and the Government Transport Department on the other.

28. We have said while dealing with the control of essential commodities that freight plays an important part in the fixation of price levei especially in the case of Kashmir Province. The present rate of freight was fixed by the Registering Authority under Section 43 of the Motor Vehicles Act. A perusal of the order under which the freight has been fixed shows that the requirements of the said section have not been fulfilled. The representatives of the interests affected do not appear to have been heard at the time of fixation of the freight which was necessary under the provisions of the Act. The Transport Controller stated that as he did not increase the freight he did not consider it necessary to consult the representatives of the interests affected. That is not a satisfactory explanation for non-compliance with the provisions of the statute. From evidence on record it appears that variation of freight have been made some times at very short and some times at very long intervals without hearing representative of the interests affected by these variations except on one occasion.

29. These variations of rates appear to have been made without complying with the express provisions of law

because the authority for fixing the freight is vested in a single individual. The power of fixing freight and fares is a power of great importance having far reaching consequences not only on trade, commerce and industry in general but on the whole class of consumers. This power is vested in the Indian Act in State Governments to be exercised by them after consultation with the State and Regional Transport Authorities and after hearing representatives of the interests affected. In the State this important power is vested in the Registering Authority and we have noticed with regret that the safeguards provided by law for exercise of this power have very often been ignored. After examining the orders fixing the freights it is clear that during the last five years only once (*vide* order dated 14th September, 1948) was the power of fixing of freights exercised in the interest of the consumer in quite a rational manner but unfortunately this order did not remain inforce for more than two weeks That order fixed the following freights :—

I

Salt and other controlled commodities.

(1) Pathankote-Jammu Road Re. 1 per maund instead of Re. 1/8/- as at present.

(2) Jammu-Srinagar Road Rs. 2/8/- per maund instead of Rs. 6 as at present.

II

Non-controlled commodities.

Jammu to Srinagar Rs. 7 per maund instead of Rs. 6 as at present.

It does not appear that any effort was made by the Transport Department to examine carefully the possibility of reducing freight especially from Jammu to Srinagar. Reduction in freight on salt would have greatly lightened the burden on the consumer as referred to earlier. As the freights were high the Transport Department has in less than five years paid back the whole Government loan with interest with which a fleet of 254 vehicles was purchased for the Department which has now risen to 410 and has built a further reserve out of the profits.

30. It will be interesting to record the figures showing the total capital invested and the profits made by the Department from the years 1949 to 1951 :—

	Rs.
Capital (taken on loan from the Government at 6 per cent. P. A.) ..	57,00,000
Profit for the period ending March, 1949.	3,59,000
Profit for the year ending March, 1950 ..	6,12,000
Profit for the year ending Chet. 2007 ..	2,87,000
Reserve for 'Replacements' ..	8,00,000

31. It has been stated by witnesses connected with the tansport business and also by those not so connected that if there had been competition between private transport and Government Transport the freight from Pathankot to Jammu would have been less than Re. 1 per maund and from Jammu to Srinagar not more than Rs. 3 or Rs. 3/8/- per maund. It was even alleged that at times private transporters did charge Rs. 3 or Rs. 3/8/- between Jammu to Srinagar when maximum freight fixed was Rs. 6 per maund, but the Transport Department took steps indirectly to prevent them from charging that freight for fear of losing its own business. The witnesses quoted instances in support of their contention. The Transport Controller in his reply pointed out that he had fixed the ceiling rates of fares and freights and not the controlled rates and that the private transporters were at liberty to charge anything not exceding the maximum fixed. It was not proper to fix the ceiling rate of Rs. 6 if the rates had already gone down to Rs. 3 or Rs. 3/8/-. In view of this, freight rate on essential commodities has been definitely high and therefore a consumer has had to pay more on these commodities.

32. It has been contended before us that the Government Transport Department succeeded in retaining the ceiling freight rate as the controlled and fixed rate by stifling competition and by the contrivance of helping the establishment of two unions among the private transporters, one at Jammu and the other at Srinagar, called the Transport Operators Union. It was alleged that it was indirectly at the instance of the authorities of the Transport Department that the owners of private transport companies

formed these unions and all the private transport owners pooled their vehicles together and agreed to run them according to their turns. In Jammu an organisation was set up and different routes were placed incharge of different managers with one General Manager for the whole. They are paid handsome salaries from the income of the Union. The income of the union comprises of two sources firstly they charge six pies per rupee of the freight charge and one anna per rupee of the fare charge from the owners of the vehicles. The second source is that if a businessman wants to have loading and unloading on his shop or godown outside the general stand he is charged Re. -/1/6 per maund. Out of this amount, 40 per cent is paid to the owners of the vehicles and 60 per cent is taken by the Union. In the memorandnm submitted by the Secretary Transport Operators Union Jammu it has been stated that Rs. 4,500 was the amount spent monthly by the Union on the pay of the establishment out of the 60 per cent taken by the Union. One witness deposed that this union is nothing but the creation of the Transport Department to serve as a prop for all the measures taken by it. When these vehicles run in turn each vehicle charges the ceiling freight from every trader with the result that the ceiling rate has become the normal rate and no one charges less than that. The combination of the transporters into this union has resulted in killing competition among private transporters *inter se* and between Government transport and private transport. The work of this union is regulated by the issue duty slips. The Secretary of the union issues the duty slip in favour of the vehicles whose turn it is to ply. On the basis of that duty slip the Petrol Rationing Authority issues petrol coupons in favour of the vehicles. In actual practice the union is the authority for keeping the turns for plying of all the vehicles and in consequence for the issue of petrol in their favour. The traders alleged that they would have flooded the market with commodities if artificial difficulties had not been raised in their way. The Government Transport vehicles have been carrying the controlled commodities from Pathankot to Jammu and from Jammu to Srinagar and on them the ceiling freight has invariably been charged. The private vehicles carry goods other than controlled goods in accordance with the turns prescribed by the method of working of the Union. Up to the end of 2008 all the controlled commodities were transported by the Government Transport vehicles but in the year 1952 the Government Transport obtained a contract for the transport of military goods with the result that they

engaged themselves in transport of military goods leaving a large bulk of controlled commodities to the private transporters. When the Transport Controller was questioned in regard to these unions he denied that his department had any hand in establishing them. He stated that it was the sole concern of the private owners and that he had no hand in the affair.

33. The words "the position was also discussed by me with the transporters at the time of the consolidation of all transport companies both in Jammu and Srinagar into one unit" used the order dated 23rd March, 1950, referred to above would show that the union was indirectly sponsored by the Transport Department and was not an entirely voluntary move of the private transporters. Moreover the issue of petrol conpons on the basis of duty slip issued by the Union further shows that the union came into existence at the instance of the Transport Department.

34. We have been told by witnesses that if the Government Transport is made to run in open competition with private transport vehicles the freight from Jammu to Srinagar, as already stated, would be in the neighbourhood of Rs. 3 to Rs. 3/8/- per maund. The Transport Controller stated that competition was already in existence but from the evidence which has come before us we are satisfied that there is no competition among the transporters including Government Transport at present. If there had been open competition the rate of freight would not have been uniform throughout the year. It would certainly change with the seasons according to the rule of supply and demand.

35. We are definitely of the opinion that the Government Transport Service is a very essential service and that this service should continue both for the passengers and trade goods. This concern rendered very valuable service at a very critical period of the history of our State and it can continue to render valuable service in future as well. The Department should function in the interest of the public and in competition with the private transport service as it will have a very healthy effect in keeping the rates at a reasonable level.

36. The question put to the Transport Controller in this connection and his reply thereto being of some interest is given below verbatim :—

"*Question* :—Do you envisage any break down of the Government Transport if

(*a*) free competition is brought into play and transport department made to function just like a private bus company ;

(*b*) petrol is derationed ; and

(*c*) powers of Registering and Licensing Authority and supervision, direction and control of traffic under Motor Vehicles Act transferred to some other officer than the Transport Controller.

Answer : "(*a*) I do not envisage any danger in the Government Transport Department. Firstly I claim that the Transport Department have never enjoyed any facilities or any privileges in its normal working and therefore there is nothing to be withdrawn in that behalf ; secondly the civil transport carried 80 per cent. of the total share of the transport trade (goods and passengers) while the Government Transport carried less than 20 per cent. Therefore it means the department is already facing competition in 80 per cent of the total business. So all things considered, treating the Government Transport like a bus company and bringing more competition into play will not affect the Government Transport immediately in future. As regards 20 per cent. which the Government Transport carries without competition it consists of salt and sugar and rice. I think the Government should continue to give my department the assistance to the extent of at least 20 per cent. of the total transport trade. Here I may mention that in other sister provinces special care has been taken by the Government to protect and safeguard the interests of their respective Government owned transport services. Even minimum rates have been fixed by some Governments only to avoid competition and here I can claim that except this 20 per cent. nothing more has been done to protect the Transport Therefore if this protection of 20 per cent. to the Government Transport is not afforded because the Government may decontrol salt, sugar and cloth, I think the Government Transport in the long run may be affected adversely and the consumer will

not get the countless amenities which the Government Transport extends and there is every danger of the country facing the situation which it faced in the year 1947.

(*b*) Nor will it envisage any danger if petrol is derationed.

(*c*) Regarding transfer of powers mentioned in Motor Vehicles Act there is not a single case in which any preference has been given by the authority in whom these powers have been vested in favour of the Government Transport and therefore this is not a factor which should at all count in case of the Government Transport Department is left to compete in the open market against the private transport companies."

36. At present we find that the vehicles of the Government Transport Department get some preferential treatment over private vehicles. This, in our opinion, should be avoided. The Transport Controller has challenged this allegation but a reference to a few instances would make it clear that the Government Transport vehicles enjoy special privileges in preference to private vehicles :

(1) The private vehicles have to pay registration fees whereas the Government Transport vehicles enjoy exemption from it. The exemption provided for in the rules for vehicles belonging to Government Departments was made at a time when there was no Government Transport Department. We are of the opinion that this exemption should apply only to vehicles belonging to Government Departments which do not run on commercial basis.

(2) The private vehicles have to obtain road certificates now called permits and pay fees therefor. The Government vehicles do not obtain permits and therefore do not pay any fees. The Government Transport vehicles which are run for commercial enterprise should not be exempt from the necessity of a permit. The advantages arising from exemption from permits are far reaching and some of them may be illustrated as under :—

(*a*) A permit is issued for a specificd route or routes and the right to ply the vehicle is limited to that particular route or routes. Because of exemption from obtaining permits, the Government vehicles are entitled to run on any route, long

short or branch routes, without any restriction. A business man who has to export a commodity from Baramulla to Pathankote has to engage a transport vehicle carrying his commodity up to Srinagar and then he has to engage another vehicle for transport of his commodity to Jammu. If he engages a Government Transport vehicle there would be no necessity for him to load and unload his goods at Srinagar for the purpose of sending them to Jammu. He would, therefore, prefer to have a Government Transport vehicle rather than a private one.

(*b*) The Government Transport vehicles do not pay Municipal taxes whereas a private vehicle has to pay those. The Transport Controller has stated that as the Government Transport vehicles do not use the Municipal Bus-stands, therefore, they were not liable to pay Municipal taxes but it is the use of the Municipal roads for which a vehicle has to pay Municipal taxes.

38. The above illustrations would show the advantages which the Government Transport vehicles have got over private vehicles and yet it is contended that there are no such advantages.

39. After consideration of the entire position in regard to transport in the State our recommendations are as follows :—

I. The Inspector General of Police should be the Registering and Licensing Authority and Controlling Head of the Traffic Department as it was previously.

II. (*i*) Suitable amendments should be made in the Motor Vehicles Act to give the power under Part IV of the Act to the State Transport Authority on the lines provided in the Indian Act. The constitutions and composition of that Authority should be similar to that of the Indian Act and consist of officials and non-officials.

(*ii*) The State Transport Authority will be a sort of quasi-judicial body empowered to entertain and dispose of applications for permits and discharge other functions in accordance with the provisions of the Motor Vehicles Act. This body should have a separate necessary staff of its own unconnected with the Government Transport Department to discharge the functions under the Motor Vehicles Act. For

all purposes it should be a permanent Government Department.

(*iii*) The official members composing the State Transport Authority should consist of the Director of Industries and Commerce, the Inspector General of Police, Transport Controller and the Chief Engineer Planning and the Minister Incharge as Chairman. Four non-official members should consist of the President of the Chamber of Commerce and three representatives of other general trading and transport agencies.

III. Section 43 of our Act should be brought into line with the provisions of Section 43 of the Indian Act.

IV. Petrol should be derationed. As permits are issued for specified routes the issuing of the duty slips becomes unnecessary.

V. (*i*) The Government Transport Department should run as a transport organization under the charge of an Officer to be designated as Transport Commissioner or Director General or General Manager Government Transport Service. The present designation of Transport Controller will be a misnomer in view of the duties proposed to be performed by him. This officer should have no jurisdiction over the private transport services.

(*ii*) The Government Transport vehicles must pay registration fee, permit fee and municipal taxes.

(*iii*) The Government Transport vehicles must necessarily obtain permits under Section 42 of the Motor Vehicles Act.

(*iv*) The Government Transport vehicles should have no preference in obtaining Government goods or private goods but must run in competition with private companies.

If, as a result of implementing the recommendations made above, the Government Transport Service at any stage finds itself in a position that it cannot hold its own ; considering that this service is essential to the life of the community, the Government should be prepared to subsidise the department to allow it to continue functioning. This is not only the unanimous view of disinterested witnesses who appeared

before the Committee, but the very considered opinion of the Committee.

40. We desire to make it clear that every citizen has a right to carry on any trade or business and anything which interferes with that right must be held to be bad. The drivers of transport vehicles including passenger buses have a right to ply their vehicles on public highways subject to the right of the State to lay down conditions for the better regulation of traffic etc. in the public interest. At the same time the State has a right to hold and manage its own property and carry on such trade or business as a citizen has the right to carry on so long as such activity does not encroach upon the rights of others or is not contrary to law. If in the interest of the general public and to provide them with transport amenities the State decides to run its transport service it would be only discharging a duty incidental to the ordinary functions of the Government and it is not necessary to have a specific Act before the State can do so, but it cannot be so in the case of nationalization. Nationalization of any industry is not possible without legislation as nationalization has in it two implications ; firstly that the State will carry on business and secondly that no one else will be allowed to carry it on The second is an infringement of the rights of the citizens and therefore it must be by legislation. Until nationalization of all or any particular route is effected it is imperative that there should be equal treatment to the private as well as Government Transport Service even in the transitional period. We are definitely of the view that there should be free competition in the transport service which will be beneficial to the public at large and will ultimately result in the prosperity of the country. This should continue till such time that the Government decide finally on nationalization of transport for the whole State and actually implement it.

SUMMARY OF RECOMMENDATIONS.

I.—The provisions of Part IV of the State Motor Vehicles Act should be identical with those of Chapter IV of the Indian Act and the powers of issuing permits should not be with the Registering Authority but with the State Transport Authority consisting of officials and non-officials appointed by the Government.

II.—The State Transport Authority will be a quasi-judicial body with powers to dispose of applications for permits and to discharge the functions under the Motor Vehicles Act. This should be a permanent Government Department having a separate staff of its own and unconnected with the Government Transport Department.

III.—That the powers under Section 43 regarding the control of road transport and fixing of fares and freights should be exercised by the Government bringing this section of the State Act in line with the corresponding section of the Indian 'ct.

IV.—That the Transport Controller should have nothing to do with the administration of Motor Vehicles Act and that he must cease to be the Registering and Licensing Authority and the head of the Traffic Department. All these powers should be transferred to the Inspector General of Police.

V.—That petrol should be derationed *forthwith.*

VI.—That exemption from payment of Registration fee should be withdrawn from the vehicles of the Transport Department; these vehicles being liable to payment of Registration fees, Municipal taxes etc.

VII.—That exemption from obtaining road certificates or permits in favour of Government Transport Vehicles should be withdrawn from them.

VIII.—That the Transport Controller be designated as Transport Commissioner, Director General or General Manager. Government Transport service having *no* jurisdiction over private services.

FOOD CONTROL.

FOOD CONTROL.

1. The question of food control as it obtains in Jammu and Kashmir Provinces is discussed in this chapter.

Jammu Province.

2. The Director General, Food and Supplies, in his memorandum has stated that "Jammu Province was deficit in foodgrains even in the pre-control period and every year about ten thousand tons of wheat were imported through normal trade channels from the adjoining areas in the Punjab. With the imposition of food controls all over India in the year 1942-43 due to conditions created by World War II, Food Control was enforced in the State also and we joined the All-India Basic Plan, sponsored by the Government of India as a deficit State. From the years 1942 to 1947, ten to twelve thousand tons of foodgrains annually were imported by the Government under quota system, out of which about $\frac{1}{6}$th was sent to Kashmir Province and the balance was consumed in Jammu Province. With the conditions created by the Pakistani raids and internal disturbances in the State food situation became very critical, particularly in Jammu Province, and larger quantities of foodgrains had to be imported to meet the deficit. The figures of imports for the year 1948 to 1952 are given below :—

Year.	Total quantity imported.	Retained in Jammu Province.	Despatched to Kashmir Province.
	Tons.	Tons.	Tons.
1948	22,945	18,721	4,224
1949	56,286	29,506	26,780
1950	25,933	13,328	12,506
1951	11,875	6,875	5,000
1952	7,000	5,000	2,000

"In order to make the high priced imported foodgrains available to the consumers at a price within their purchasing capacity the Government gave a subsidy of Rs. 45,78,037/2/3 in Jammu Province alone."

'The imports have been decreased progressively due to improvement in internal food position and a deficit of about 6,000 tons remains to be covered. Until this deficit is made up by Rehabilitation and Grow More Food Drive launched by the Government and unless the Government of India decontrols food allowing free movement of foodgrains from one State to the other it is neither safe nor possible to decontrol the foodgrains altogether without jeopardising the interests of the consumers.

The system of control as prevailing in Jammu Province is that Jammu city is the only rationed area where wheat, wheat-atta and rice have been declared as rationed articles. Sale and purchase of these articles is prohibited except at authorised Government Depots. Import of these rationed articles in this area cannot take place without a permit of Director Food and Supplies. There is no restriction on movement of other foodgrains. Rationed foodgrains are issued to the consumers from the Government stocks at the rates fixed by the Government. The prices are fixed on no profit no loss basis. There are no restrictions on sale and purchase and movement of foodgrains in places outside the Jammu rationed area throughout Jammu Province, except Rajouri-Poonch district wherefrom export cannot take place without a permit from the Director General of Food and Supplies. To meet shortage of foodgrains in the lean months of the years the Government fair-shops are opened in the rural areas also wherefrom foodgrains on fixed rates are issued to the consumers. In the non-rationed area the dealers in foodgrains are required to obtain foodgrains licences for dealing in quantities more than five maunds. To meet the rationing and other commitments the Governmnet procures the foodgrains from the producers of surplus areas under a compulsory levy system through an appointed contractor. Maximum procurement scale is one-fourth of gross produce.

The Director General has observed that "the existing pattern of control in this Province is working satisfactorily to the benefit of the consumers. With the cordoning off of the rationed area there is free flow of foodgrains in the rural areas, where prices are being gradually stabilised and there is a downward tendency. The black-market in foodgrains has been largely eliminated."

3. There are restrictions on inter-district movement of foodgrains during procurement period only and not during

the rest of the year. The rate of the levy is according to the holding of a person. In case of wheat the procurement is very small and it is only got from Jammn and Kathua districts. The other districts are exempted from procurement of wheat. Maximum procurement of wheat is 20,000 maunds a year. No procurement of wheat is made from holdings up to 2 acres. Only holdings above two acres are charged one-fourth of gross produce. The Food Department has been obtaining wheat from the Punjab and PEPSU in place of foreign imported wheat which previously used to be supplied to the State by the Government of India and the landed cost of which was very high. The locally procured wheat was purchased at Rs. 10/8/- a maund.

4. The problem of food control is not a complicated one in Jammu Province. The quantity of imported grains is gradually decreasing and it is gratifying to note that the volume of imported grains for Jammu Province has come down from 18,721 tons, 29,506 tons and 13,328 tons of the years 1948, 1949 and 1950 respectively to 6,875 and 5,000 tons for the years 1951 and 1952 respectively.

5. It was contended by some of the witnesses that Government purchased local wheat at about Rs. 10/8/- a maund but sold it at a higher price of about Rs. 17 to Rs. 18 a maund. The Director General has stated in reply that the locally purchased wheat does not exceed 20 000 maunds a year whereas the requirements of the city are about 1,40,000 maunds and, therefore, the locally purchased wheat does not constitute a large portion of the wheat requirements for rationing the city of Jammu. According to him the locally procured wheat was sent to the far flung areas like Kishtwar and Poonch-Rajouri district in order that it may be available at a reasonable price after adding to it the transport and other necessary overhead charges. It was further stated that about 10,000 maunds from the locally procured wheat have been pooled into the imported wheat in order to give a partial relief to the consumers in the city by reduction in the price of wheat-atta, the price of wheat-atta charged at present being Rs. 17/3/- per maund. The break-up of the price, as given by the Director General, shows that the overhead charges on wheat are on the whole not very high.

6. The question that arises in connection with the system of food control in Jammu Province relates to the

demand made from some quarters for lifting the ban on the import of foodgrains and allowing their free sale in the rationed area of Jammu city.

7. Witnesses have appeared before the Committee and stated that wheat and rice both sold at cheaper prices outside the Jammu city and that Jammu city people imported foodgrains clandestinely from Tillo Talab and other suburbs where wheat as well as rice were sold at cheaper prices than prevailing in Jammu city. Their argument was that if the ban on import of foodgrains in the city of Jammu was lifted there would be a large quantity of foodgrains available in the city at a lower price and this will help the consumer to a large extent. The Director General stated that it would not be advisable to lift the ban because that would lead to the foodgrains being cornered and stocked by the foodgrain dealers without affording any relief to the consumer. He was of the opinion that free permission to import foodgrains into the city instead of leading to a fall in the price of wheat in the city would lead to a rise of price of the local wheat also without affording any relief to the consumer in the city.

8. The Committee has considered these points very carefully and are of the opinion that the Government should continue procurement and also distribution of foodgrains for the city of Jammu as it is doing at present excepting that procurement should be arranged through the Revenue agency like in Kashmir without any intervention of contractor as is the practice at present.

9. The Committee supports the policy of prohibiting the export of foodgrains outside the Province except under permits of the Director General of Food and Supplies. This is a healthy restriction and permits should be restricted and given for export in cases of personal consumption alone and not for purposes of trade. Ordinarily there should be no restriction on the movement of foodgrains within the Province and the Committee would, therefore, recommend the complete abolition of this restriction but if the Government feel that this removal of restriction, so far as import into the city of Jammu is concerned, will interfere with their procurement programme and they will not be able to procure as much as they want and at the rate as fixed they may restrict the import in Jammu city during the period of procurement but this should be done for as short a period as possible.

10. The scale of levy obtaining in Jammu Province is quite satisfactory as procurement is made only from surplus areas like Jammu and Kathua and again from holdings exceeding 2 acres.

Kashmir Province.

11. With regard to food control in Kashmir Province a memorandum has been received from the Ministry of Revenue wherein it has been stated:—

"Food problem in Kashmir particularly in the city of Srinagar is an old one and has since long been managed by the administration. The grain dealer of Kashmir believed in cornering all grain and selling it at exorbitantly high rates built up artificially.

"Food being thus a baffling problem the State has of old reserved to itself the right of recovering revenue in kind, though in actual practice it is being realised in cash. This recovery in kind is known as Mujawaza and the levy is enforced in proportion to the demand and with the collections thus made, Government granaries are fed to ration the population according to the need of the time.

"The first World War disturbed economy all over and its effect was felt in Kashmir some time about 1916-17. Prices in general rose and the foodgrains were no exception to this rise. Food Control Department was set up on or about 1921 in order to make grains available at cheaper rates. The organisation continued in full swing till a little before the Second World War, when due to slump it had to be practically wound up. Shortly after this Second World War broke out and was followed by inflation which necessitated the introduction of control over food in India in 1942-43. The State administration was, therefore, again compelled to continue the measure of control over foodgrains to maintain their equitable distribution and along with it to reinforce the food organisation.

"With the Pakistani raids in 1947, situation generally worsened and we could hardly expect to proceed on normal lines. Food control had to continue. Normalcy has returned since and the question of food policy has off and on been examined and relaxation wherever needed and possible allowed. But in view of the fact that the population generally and therefore in the valley and specially in the city have swelled and out of proportion without corresponding increase in the area under food crops, decontrol cannot be favoured.

"During the past few years since the raids on the State the Food Control Department has not only served the Srinagar city for which it was originally designed but has gradually extended its sphere of influence to urban and rural areas outside the city where in the lean months of the year there is usually shortage of

foodstuffs. It has also helped the operations of the various Government Departments by supplying foodstuffs for their labour in the far off places where otherwise the engagement of labour would be hard task due to food scarcity.

"The Mujawaza is levied, assessed and realized, under the terms and conditions laid down in statutory orders known as "Shali and Maize Control Orders." These orders are comprehensive and provide for assessment on a sliding scale on the holdings of all landholders and tenants on whose lands Shali and maize mature."

12. The memorandum of the Ministry of Revenue further adds that during the year 2009 up to 7th Phagan, 2009, realization of 7,61,898 *khirwars* of *shali* and 18,044 *khirwars* of Maize in grain and 11,895 *khirwars* of Maize in cobs have been made. The memorandum goes on to say:—

"As already indicated above, the collection figures have not been enough to cater to the needs of the whole province equitably. To meet the growing demand, foodgrains had to be imported from India and Jammu.

The distribution of the locally collected and imported grains comprises of (*a*) city rationing and (*b*) Merbehri and Muffasil rationing.

"The issues in the city are based on a statutory system of rationing at the scale of 4 *traks* of *shali* and 2 seers of *atta* per head per month. Besides the city population issues are made to visitors, hospitals, jails, institutions, hotels and restaurants.

"Rationing in Muffasils is made as a matter of relief and includes rationing in towns subrubs of the city, Merbehri, deficit areas, Frontier and Pahar *illaqas*."

"The Muffasil rationing is further being supplemented by stocks raised locally on voluntary procurement basis."

13. The Director Kashmir Valley Food Control Department has, in a communication addressed to the Secretary to Government, Ministry of Revenue, (endorsed to the office of the Committee) remarked that all the years in question, namely 2005 to 2008 have exhibited a loss as indicated below:—

		Rs.	a.	p.
2005	..	15,90,752	2	4½
2006	..	65,38,425	2	3
2007	..	13,91,263	15	4
2008	..	13,67,531	10	4½

The Director General, Food and Supplies, in one of his letters stated that the loss sustained on subsidy to Kashmir Province during the years 2006, 2007 and 2008 was Rs. 1,32,84.465. The Director Food Control was asked why and how the department was running on loss. He replied as under:—

> "Recently he had worked out deficit of about 7 lacs loss for the year 2009 as shown in the Budget and this year it is estimated to be about 5 lakhs. Imported foodgrains have been subsidised. This year they are not going to subsidise any foodgrains. The Director further stated that establishment charges are met by the Food Control Department and not by the Government to which the Committee observed that these charges could not be met by General Revenues, as the Food Control Department should work like a commercial department. The Director gave the Committee to understand that they sell the *shali* at Rs. 10/8/- while actually it ought to have been sold at Rs. 11 and so As. -/8/- was a loss undergone by the Food Control Department as calculated roughly and if *shali* were sold at Rs. 11/4/- there would be no loss."

14. In connection with food control in Kashmir the first question that arises for consideration is whether there is any need, in the interest of the community, to run the Food Control Department as it is. This will depend on whether Kashmir Valley is sufficient in matters of food and whether continuance of food control is necessary.

15. It is only when supply is short of demand that the necessity for control arises. There will be no necessity of controlling food if the Province is self-sufficient in food. The food trouble in Kashmir Province rose in the year 1916-17 during the First World War as stated in the memorandum of the Ministry of Revenue. In 1921 the question of food control was taken up by the Government on a more or less permanent basis by establishing the Food Control Department. The Department functioned up to a little before the Second World War when it was almost wound up and heavy retrenchments were effected in the department. Again in the year 1942-43 during the Second World War due to the scarcity of food, the department was recognised and since then its strength has increased and now it is a well-manned and well-equipped departmeut. In the days preceding the Second World War when the department had almost reached the stage of collapse, Kashmir Valley used to export food to far off places like Kishtwar, Muzaffarabad, Gilgit, Ladakh, Poonch and even the Punjab. That would

presumably lead to the inference that the Valley had then surplus production of rice and we put this question to the Director of Food Control of Kashmir and the Deputy Commissioner Srinagar as to what had happened since then to make Kashmir Valley a deficit area in the matter of food. They both replied that Kashmir Valley was never self-sufficient, to say nothing of being surplus. They said that even in those days the zamindars generally fed themselves and their families mostly on fruit and vegetables and sold their foodgrains to earn money for meeting other necessities. Their view was that the valley was never self-sufficient in food.

16. This view of the above officials was supported by only one non-official witness. All other witnesses were of the opinion that Kashmir was then surplus in food and never deficit. Some of the retired revenue officers who appeared before us have deposed that Kashmir was self-sufficient in food if all foodgrains were taken into consideration.

17. In the absence of reliable data in regard to production of different kinds of foodgrains it cannot be said with certainty whether Kashmir is self-sufficient or not. There has been considerable increase in the population and there has not perhaps been corresponding increase in the area of land under cultivation. The Government has recently launched several irrigation projects and grow more food campaign and there is every hope that within a few years the Kashmir Province may not only be self-sufficient in the matter of food but may even be surplus. If Kashmir Valley is deficit in the matter of foodgrains rationing will be necessary and the Food Control Department will have to continue.

18. The entry of *shali* into the city of Srinagar is banned and its movement from one district to another in case it takes place through Srinagar city is also banned. The Department issues permits to Chakdars allowing them to import *shali* because they are not given ration tickets for purchase of *shali* from the Government depots. A number of questions arise in relation to the present system of food control.

19. The first question relates to the levy of Mujawaza surplus, *khush kharid* etc. On inquiry by the Committee the Revenue Department has supplied details of the changes made in the system of Mujawaza from time to time. It is

not necessary to refer to the system as it was before the year 2009. The system as introduced in S. 2009 as described by the Revenue Department is, as follows :—

"*Samvat* 2009 .—Instead of 1/4th of the gross produce according to Chakla rate concerned levied from 2006 in the case of proprietors holding 5 to 100 *kanals*, the scale was reduced to 1/5th and the levy imposed on holdings from 1 to 100 *kanals*.

"2. In Kandi circle instead of 1/5th of the gross produce levied on holdings from 5 to 24 *kanals* in Samvat 2006 the scale was reduced to 1/6th upto 50 *kanals*.

"Surplus recovery was made after making proper allowance for the Mujawaza due from the assessee and his legitimate requirements for one year. Instructions were issued in this behalf calling upon the assessing officer to calculate surplus after allowing 50 per cent of the balance left with the assessee.

"*N. B.*—Balance meant the grains left with the assessee after taking into consideration the Mujawaza and the legitimate requirements of the assessee.

"Mujawaza was levied at one *trak* of maize in cob per *kanal* in land on which maize was cultivated. Procurement price was the same as in 2008."

20. It may be added here that the rate of Mujawaza above 100 *kanals* was one-third (1/4th by the proprietor and 3/4th by the tenant) of rate Chakla in non-Kandi *illaqa*. In Kandi *illaqa* the rate of Mujawaza from 51 *kanals* to 100 *kanals* was one-fifth of the Chakla rate and above 100 *kanals* one-third.

21. This would show that from the year 2009 some changes have been made in the scale of Mujawaza. In Kandi circles no exemption of any holding was allowed and the scale was fixed at 1/6th of rate Chakla up to 50 *kanals*. and in non-Kandi area the scale was fixed at 1/5th of rate Chakla up to 100 *kanals*.

22. At almost every place we visited in Kashmir Province the main grievance of the people was against the Mujawaza. People were very bitter against the present system and the scale. Some of the complaints made in this connection are given below :—

(*a*) It was complained that persons who could not produce from their lands enough to eat even for three months of a year, were subject to the levy of Mujawaza. No

consideration was given to leaving enough food for families according to their strength or the size of their holdings.

(*b*) To enable them to deliver the quantity of Mujawaza under the levy, peasants had to resort to black-market to purchase the quantity at exorbitant price which was two to three times that fixed by the Government.

(*c*) Over and above the fixed levy, grains had been procured either on the so-called *"Khush-Kharid"* or surplus basis through co-operatives The general complaint was that procurement under these schemes had actually been made by unscruplous persons in collusion with the Revenue and the Co-operative agencies, and through coercion and unfair methods.

(*d*) That at the time of Delivery of Mujawaza a peasant had to deliver 17 *traks* per *khirwar* instead of 16 *traks* at the Ambar as otherwise the Ghat Munshi would refuse to take delivery.

(*e*) Standard weights and scale were not used at the Ambars and Ghats.

(*f*) Payment of advances for Mujawaza were not made direct to the peasants but through Lamberdars resulting not only in delay but in some cases none or short payment.

23. We deal with these complaints *ad seriatim*:—

(*i*) Regarding (*a*) & (*b*) we have been impressed in regard to the genuineness of these complaints and have seen some very hard cases during our tour in the Muffasils of Kashmir. In some cases a peasant who not having enough holdings and consequently not producing food for his bare minimum requirements, had to purchase foodgrains from the black-market in order to pay the Mujawaza. Previously small holdings were exempted from Mujawaza but from the year 2009 no such exemption has been allowed. No doubt the scale of Mujawaza has been reduced but it has not afforded any relief to the zamindars having small holdings. We have considered this question very carefully and we propose as follows :—

1. (*a*) Holdings up to at least to 8 *kanals* in Kandi and 4 *kanals* in non-Kandi areas should be completely exempted from the levy of Mujawaza.

(*b*) Exemption from Mujawaza of lands growing maize.

As regards proposal (*a*) above, some marginal adjustment will be necessary for holdings exceeding 8 *kanals* and 4 *kanals* in Kandi and non-Kandi area respectively. Logically speaking in case of such holdings also first 8 and 4 *kanals* respectively should have been exempted from Mujawaza but as we understand that the maximum number of holdings are in the neighbourhood of 10 to 15 *kanals* at an average, this may not be possible because full quota of Mujawaza may not be realized. The only other alternative that suggests itself in this context would be that of limiting the exemption up to a certain specific holding for purposes of marginal adjustment which is for the Government to decide.

It may be argued that by exempting persons holding only 8 and 4 *kanals* the Government may not be able to collect enough food for the rationed areas. For this the following suggestions may be considered :—

(1) Increase in the sliding scale at higher rungs, *e. g.* if Mujawaza is recovered at this time at 1/5th of the produce it should be raised to 1/4th beyond the exempted limit.

(2) Persons whose holdings exceed a certain limit—the limit being fixed reasonably after allowing for the family necessities of the individual concerned and taking into view his holding—should surrender the whole surplus as Mujawaza.

(3) Landlords and Chakdars living in rationed areas should surrender the whole of their produce subject to their getting ration tickets like other people in the rationed areas according to their family strength.

In this connection it shall have to be considered that the recovery of Mujawaza from the landlords will depend on their getting their share of produce from the tenants. If a landlord is unable to realise his share from the tenant the Government will have to take steps for realising his share for the purpose of Mujawaza.

(4) Reduction in the number of rationed areas and excluding some class of people from rations within a particular rationed area. For example, stopping the supply of foodgrains in the case of labour engaged by P. W. D. Irrigation and

Forest contractors, the Food Control Department confining its activity to the rationing of only the rationed areas and leaving the contractors themselves, who are paid adequate rates to cover all their expenses inclusive of labour, (because these contractors tender for Government works after taking into consideration the labour and the charges therefor) to their own resources to supply food to the labour engaged by them. This would not only reduce the quantity of food stuffs which the Government may have to collect under Mujawaza system but would also close the door on the unscrupulous methods that are employed by such agencies in disposing of the food so obtained in an unauthorised manner. This will also fit in with the recommndation made by the Committee regarding exemption of Mujawaza at para (*b*) above.

(*ii*) In regard to complaint made at (*c*) above, we have not been able to understand the necessity of authorising Co-operatives to recover *shali* from the zamindars with the assistance of the Revenue Department. The Co-operatives were authorised to avail of the statutory authority given to the Revenue Officers for making these recoveries of foodgrains from the zamindars. The Deputy Registrar, Co-operative Societies, Srinagar *could not conceal the fact that at times they used coercion in recovering* shali. To quote from his statement before the Committee :—

> "A person holding surplus grains was called upon to deliver it and since he did not want to part with it when the market price was much higher, there was an element of coercion in collection. The Co-operatives persuaded him and if the persuasion failed he was forced to do it. If one could satisfy that he had nothing to part with, we were morally bound to leave him. There was an order from the Deputy Commissioners permitting Assistant Registrars to make searches. The procedure was that the Co-operative workers, the National Conference people and other popular representatives joined together and appealed to the public that all surplus grain should be given to serve the poor and the needy. Some cases of misappropriation of *shali* were brought to my notice and action was taken against them. Some were referred to the police. Money was recovered in majority of cases."

These levies under different heads besides Mujawaza have burdened the zamindars very heavily and have driven them to the necessity of purchasing *shali* in the black-market. Some witnesses said that they purchased *shali* at more than Rs. 20 a *khirwar* in the black-market to deliver

it to the authorities and get in return Rs. 9 as the price per *khirwar*.

We strongly urge upon the Government that there should be no kind of levy except under the statutory Mujawaza system and through no other agency except that of the Revenue as done for purposes of Mujawaza.

(*iii*) In regard to complaints made at (*d*) and (*e*) it is proposed that the Food Control Department should provide proper weights and standard scales at all the Ambars (Stores) where *shali* is delivered by the zamindars as Mujawaza and that each and every consignment should be weighed. This item should be considered as one of the most important items of the supervisory staff of the Food Control Department and since delivery of Mujawaza is confined to a particular period in the year the Director of Food Control should mobilise the major portion of his staff and send them out to the Muffasils to supervise the delivery of Mujawaza at the Ambars. For this period both the Director and his Assistants should be in the field moving from Ambar to Ambar and subjecting the delivery to proper scrutiny and personal check. This will have a very wholesome effect on the Ghat Munshis at the Ambars. While taking deliveries they will be afraid of the inspecting staff coming to the Ambars at any moment.

The genuineness of the complaint at (*e*) has not been denied by the Director of Food Control when it was put to him as to why proper scales and proper weights were not provided for at each place of delivery in the Muffasils. His reply is reproduced below :—

> "1,500 to 2,000 *khirwars* of *shali* are received every day and every *khirwar* of which cannot be weighed by an ordinary scale. The Ghat Munshis weigh one or two bags out of the consignment of 30 and the Ghat Munshi believes the zamindar. Besides this there is difference of weights in a zamindari and a standard weight. This gives rise to some excess in collection centres. Sometimes zamindars are so clever that they keep two bags in one bag and thus hoodwink the Ghat Munshis."

The Committee would strongly recommend that steps should be taken to ensure that only 16 *traks* per *khirwar* are recovered in fact from the zamindar and nothing in excess should be taken from him. In the interest of the zamindar it is necessary that *shali* should be taken after

proper weighing and for that the department should provide standard weights and scales at collection centres.

(*iv*) Regarding the complaint made at (*f*) a few genuine cases actually came before the Committee and in one of the cases the local Tehsildar made enquiry on the spot after having verified that the zamindar had not received his payment at the time or even for some days after the amount had been made over to the Lamberdar. It is not, however, clear to the Committee as to why the individual accouts of the zamindars who come to sign the acquittance roll are not settled at that very moment. Whatever recoveries have to be made on account of land revenue or on account of excess advances paid in the past should be made on spot and only the net given to the zamindar actually at the time he signs the acquittance roll. This was put to the Director Food Control by the Committee when he was giving his evidence. He entirely agreed and said that the idea of making payment on spot was quite practicable. He was asked if he needed any orders, from higher authorities, in this matter to which his reply was in the negative We do hope that he has already issued necessary instructions in this behalf and in future payments will be made to the actual payees and on spot.

24. The other question which arises is whether the Octroi barriers against import of foodgrains into the the city should be allowed to stand or not. The Director Food Control was of the opinion that if these barriers were removed we would again have the Galladar (grain dealer) and that in consequence the price of foodgrains in rural areas was bound to rise. On this question the opinion of the witnesses was divided and different suggestions were made by them.

25. On the whole witnesses belonging to deficit areas wanted that there should be no restriction on the movement of foodgrains between city and the Muffasils while some witnesses belonging to areas where food is surplus within that area were in favour of retaining the Octroi barriers. Some witnesses stated that if restriction on imports into the city was removed that would stabilise the prices of foodgrains even in the Muffasils.

26. Another point to be considered in this connection is that the scale of four *traks* of *shali* and two seers of *atta* per head per month is not enough for an individual even in the city. Apparently a ration ticket holder in the city has to

supplement his ration to the extent that he needs for his family from the black-market in the city itself. Whatever may be the source of this black-market in the city, the fact remains that an individual ticket holder does get his supplementary food. Apparently so far as the city is concerned, ban or no ban on the import of foodgrains sufficient foodgrains are found in the city of Srinagar, though at high price. The supplementary food thus available in the city is a clear proof of the fact that the barriers do not serve the purpose for which they are meant.

27. It is to be considered in this connection whether restrictions on the import of foodgrains into the city serve any purpose so far as Muffasils are concerned. Considering the overwhelming evidence that has been produced before the Committee that foodgrains do sell in Muffasils at black-market rates one is driven to the conclusion that the barrier on the Octroi posts is not serving any useful purpose in the Muffasils either. May be, a grain dealer has changed his venue to the Muffasils also besides dealing in the city. It should be immaterial for the purpose of this examination whether the grain dealer belongs to the city or has stored grain in the Muffasils itself.

28. We have given the matter our very serious thought and would prehaps have hesitated to recommend that the ban on Octroi posts for import of foodgrains into the city of Srinagar should immediately be removed for the whole year round. We have, however, the advantage of having as our colleague among us the Revenue Commissioner who has had his life long experience of the Food Control Department, both from its organisational and administrative sides, and is now dealing with it as the head of the Revenue executive. He is definitely of the opinion that food problem in Kashmir Valley will not be solved unless these restrictions on imports into the city are entirely removed.

29. It was complained before the Committee at some places that the system of granting permits for export of potatoes and pulses helped neither the producer nor the consumer but only the middle-man. It was stated that at the time when the prices of these commodities are lowest due to there being a ban on exports, some influential persons after buying the commodities at cheap rates, obtained permits for export and earned large profits. We would, therefore, propose that there should be no restriction on

their inter-Provincial movement. If at a certain stage the Government feel that there is excess of these commodities within the State as a whole and that there is necessity of exporting them outside the State, at that stage the Government should consult proper business interests dealing with these commodities and may take action as advised by them in so far as exports outside the State only are concerned.

30. In the beginning we have mentioned on the basis of the statement made by the Director Food Control that the department was running at a loss as the *shali* was sold at Rs. 10/8/- a *khirwar* in the city whereas it should have been sold at Rs. 11/4/- per *khirwar*. We would recommend that steps should be taken to see that with the present sale price in Srinagar, namely Rs. 10/8/- per *khirwar* the department is able to run on no loss no gain basis. With the existing sale price and in order to achieve this end, the Government shall have to consider the reorganisation of the department and reduction of overhead charges in such a manner that no loss is suffered by the department.

31. We were rather surprised to learn from the Director Food Control that stocks are not checked on spot and what is done is that books are checked. Checking of books for ascertaining stocks available is of no use unless the stocks are checked simultaneously at proper intervals. We would suggest that yearly, if not six monthly, stock taking should be done and stocks checked on spot. This can be done at the time when the stocks in possession of the department are at their lowest.

Ladakh District.

32. There is a system of procurement in force in Ladakh which has been provided for at the time of the last settlement. Revenue of land is assessed in terms of money and it is not all recovered in money but only 2/3rd of it is recovered in cash and the remaining 1/3rd in kind. The quantity of produce to be taken in lieu of money varies and is fixed from time to time. At present for every rupee of land revenue nine seers of produce are recovered, three seers are credited to Re. 1 of revenue and the remaining six are paid for at three seers a rupee. In other words for rupee one of land revenue three seers of grains are recovered and along with it six seers of grains are recovered and paid for at three seers a rupee. It was represented before the Committee that there should be no partial recovery of land revenue in kind and that 1/3rd

of land revenue at present recovered in kind should also be recovered in cash. In the alternative it was pressed that partial recovery of land revenue in kind be made only to the extent of revenue. In other words their demand was that only three seers of grains should be recovered as against rupee one of revenue as long as the present commutation rate remained in force and that this rate should not in future be fixed arbitrarily but on the basis of prevailing market value. The additional six seers should not be recovered at all and if recovery is to be made it should be paid for at the prevailing market price.

33. The Committee considered this matter carefully and their proposals in this behalf are as follows :—

(1) If in the interest of food economy the recovery of land revenue partly in kind be necessary then the quantity of grain to be recovered should be fixed after every two years and it should be based on the market prices prevailing at the time.

(2) If additional recovery of foodgrains be considered necessary it should be paid for according to the prevailing market price and the payment made directly to the zamindar.

34. We are informed that irrigation projects for the area are under consideration of the Government in the Five-Year-Plan. We would strongly suggest that all irrigation possibilities in this district should be expedited.

GENERAL REMARKS.

35. We cannot help recording in this context that the miseries that the peasant has been put to because of arbitrary method of recovering Mujawaza, surplus and *khush-kharid* etc. through Co-operatives and other agencies and the excess that are alleged to have been committed by various agencies in Kashmir Province, have moved us to great pity. Our feelings after hearing the most unsophisticated peasantry, has been that whatever good the land reforms might have done to them has been undone to a great extent by the highhanded methods adopted by the various functionaries in this respect. The recovery of Mujawaza at the rate of Rs. 9 per *khirwar* while *shali* can be had from two to three times this price in the local market is a cause of great annoyance and resentment to the whole peasantry. Seeing how ticklish this question was certainly the authorities responsible for collecting the so-called surplus and *khush-kharid* should have been more considerate but on the other hand to our great regret they have taken recourse to undesirable and coercive methods in effecting recoveries.

36. The Government has given top priority to the problem of irrigation in its various schemes. The first problem, in our opinion, to be attended to is irrigation and agriculture and these two departments should be given top priority so that all available lands are brought under cultivation and further that maximum yield is obtained therefrom. New methods of cultivation have recently come into vogue and the Agricultural Department should experiment on them and introduce them wherever possible. We should aim not only at being self-sufficient in food but being able to produce much more than our requirements.

SUMMARY OF RECOMMENDATIONS

Jammu Province.

1. The system of procurement, distribution and rationing in Jammu should continue as at present except that procurement should be arranged through Revenue Agency without any intervention of a contractor as at present.

2. Export of foodgrains outside the Jammu Province not to be allowed except under permits of the Director General, Food and Supplies, and that also for personal consumption and not for purposes of trade.

3. Complete removal of restriction on the movement of foodgrains through the Province.

Kashmir Province.

4. Exemption of holdings up to at least 8 *kanals* in Kandi and 4 *kanals* in non-Kandi with marginal adjustment for bigger holdings, from Mujawaza.

5. Complete exemption from Mujawaza of land growing maize.

6. No procurement to be made through any agency except that of Revenue and no levy to be made except the statutory Mujawaza.

7. Providing of standard weights and scales at collection centres for weighment of Mujawaza delivery and constant inspection of Mujawaza delivery by the staff of the Food Control Department during the period of Mujawaza recovery.

8. Payment of advances to actual payees individually on spot and not though Lamberdars.

9. Entire removal of restrictions on import of foodgrains into the city and consequent free movement within the Province.

10. Free movement of potatoes and pulses within the State.

11. Re-organisation of the Food Control Department and the reduction of overhead charges in such a manner as to make it run on no profit and no loss basis.

12. Checking of stocks at regular intervals.

Ladakh District.

13. In the event of partial recovery of land revenue in kind as at present the quantity of grains to be recovered to be fixed after every two years and to be based on prevailing market price.

14. In the event of additional recovery of foodgrains, the same to be paid for according to the prevailing market price and payment to be made direct to the zamindar.

HOUSE AND SHOP RENT CONTROL.

HOUSE AND SHOP RENT CONTROL.

1. Under Rule 65 of the Jammu and Kashmir Defence Rules the Government made an order called the House Rent Control Order, 2000, and another order called the Shop Rent Control Order, 2002. The House Rent Control Order came into force into the cities of Jammu and Srinagar from the 1st of Katik, 2000, and was applied to other urban areas from such dates as the Government by notification appointed in this behalf. The Shop Rent Control Order was to come into force atonce in the cities of Srinagar and Jammu and was to apply to other urban areas from such dates as the Government might fix in that behalf. In both the Orders urban area was defined to mean any area administered by a Municipal Committee, a Town Area Committee or a Notified Area Committee. Both these Orders were extended to several urban areas and were amended from time to time.

2. The main purpose of these Orders was to grant protection to tenants against ejectment from houses and shops and also from excessive rents agreed to be paid by them or claimed by the landlords. These Orders conferred powers upon the Controller to fix fair rent and several consequences relating to the protection of a tenant ensued from such fixation of fair rent. In fixing fair rent for a house the Controller was required to have due regard to the prevailing rates of rent for the same or similar accommodation in similar circumstances during the 12 months prior to 1st Baisakh, 1998. The fair rent in the case of a house which had been constructed after that date the Controller had to keep in view the general increase in the cost of sites and building construction.

3. The term "fair rent" was not defined in the House Rent Control Order. In the Shop Rent Control Order, 2002, the term "fair rent" was defined under Section 2(*b*). The definition given to it is as follows :—

> " Fair rent means rent not exceeding 75 per cent. rent prevailing for the same or similar accommodation in similar cirumstances during the 12 months prior to 1st Baisakh, 1998, and in the case of shop constructed after that date means rent similarly determined with regard to general increase in the cost of sites and building construction."

By a subsequent amendment under Council Order No. 342-C of 1948 dated 20th June, 1948, published in the Government Gazette dated 7th Sawan, 2005, the words "rent not

exceeding 75 per cent." in the definition of fair rent were omitted and the result of this amendment was that fair rent for both houses and shops was to be determined in one and the same manner. House and Shop Rent Control Orders remained in force up to 15th Phagan, 2009, the date on which the Houses and Shops Rent Control Act No. XIV of 2009 published in the Government Gazette dated 24th Maghar, 2009, came into force. We are therefore, now concerned with the above Act.

4. On behalf of the Government it has been stated in the memorandum that "acute scarcity of building material as an after math of last War brought complete stoppage of new construc- tions. The balance between supply and demand in respect of building accommodation having been seriously disturbed the owners egged on by their selfish interests utilized the opportunity to demand exorbitant rents. To check this unhealthy tendency that fast developed in the owners to rack rent the tenant the Rent Control Orders were issued under the Defence Rules." It is fur- ther stated that "the conditions which prompted rent control measures were the shortage of accommodation etc. continued and the influx of refugees into the cities and town aggravated the situation all the more. Rent Controls have been an important fea- ture of control measures undertaken by other States of India and our State has in the similar circumstances adopted the same course. Now in place of Control Orders as previously enforced Houses and Shops Rent Control Act has been adopted." It may be added here that the present Act is a comprehensive one and covers all matters relating to rents of houses and shops. This Act extends to the Muni- cipalities of Jammu and Srinagar and to such other urban areas to which the House Rent Control Order, 2000, and Shop Rent Con- trol Order, 2002, were extended from time to time. Section 4 of the Act provides that it shall remain in force upto the last day of Chet, 2010, provided that the Government may by notification extend the operation of the Act for another year after the last date of Chet, 2010.

5. We have recorded the statements of a number of persons in Jammu and Srinagar on the point whether or not rent control on shops and houses should continue. Both in Jammu and Srinagar conflicting opinions have been given by the witnesses in regard to this subject. On one side the rent payers, namely the tenants put forth their case for retaining control on the rents of houses and shops and on the other hand the property owners put forth the de- mand for the entire removal of controls. Printed posters putting forth their respective points of view were filed before us in Srinagar.

6. The Aukaf Committee in Kashmir also submitted a memorandum objecting to the control of rents on Aukaf property. We have very carefully considered the contentions of both sides. We are of the opinion that the conditions which were responsible for the enforcement of control over rents of shops and houses some years ago continue to this day and that, therefore, in the interest of tenants it is desirable that control over houses and shops rents should continue for the present. The present Act is not a measure of permanent nature but will remain in force up to the last day of Chet, 2010. The Act gives power to the Government to extend its life for another year after the last day of Chet, 2010.

7. On the basis of the evidence produced before us, we are of opinion that some modifications in the provisions of the Act are called for which are mentioned as under :—

(1) Chapter III of the Act deals with suits and proceedings for eviction and sub-section (1) of Section 11 provides that no order or decree for the recovery of possession of any house and shop shall be made by any Court in favour of the landlord against a tenant. This sub-section has several exceptions, one of them being that it shall not apply to any suit for decree for recovery of possession "against a tenant who has sublet the whole or a major portion of the house or shop for more than seven consecutive months."

The above clause would show that when a tenant sublets the whole or a major portion of the house or shop for more than seven consecutive months he will be liable to eviction in a suit by the landlord. We think that this clause goes too far to favour a tenant against a landlord. In our opinion protection granted to a tenant should be available to him only so long as he continues to be a tenant in the real sense. The moment the tenant sublets the house or the shop he ceases to be a tenant and consequently should cease to have the protection and advantage granted to him under this Act. We are, therefore, of the view that clause (*c*) should read as "against a tenant who has sublet the whole or any portion of the house or shop." We propose that it should be provided in express terms that subletting of a house or a shop or any portion thereof without obtaining previous permission in writing of the landlord for any length of time, however short, shall automatically operate as a termination of tenancy disentitling the tenant to any benefits under this Act.

(2) Section 23-A is an important section. It provides that all premises the construction of which is completed after the commencement of this Act but before the expiry of three years from such commencement shall be exempt from the operation of all the provisions of this Act. This provision was absent in the previous control orders and this was one of the reasons why new houses were not constructed. There was, therefore, no incentive for investing money on the construction of new houses. Witnesses have come forward to say that people did not construct new houses as they were afraid that the house and shop rent control orders would be applicable to these houses as well. Section 23-A has remedied the defect but we are of the opinion that the condition that the construction of house or shop should be completed before the expiry of three years from the commencement of the Act is not a reasonable one. We would propose that the words "but before the expiry of three years from such commencement" should be omitted in Section 23-A so that every house or shop whose construction was completed after the commencement of the Act is exempted from the operation of the Act.

(3) It has come in evidence that the Rent Control Act is more favourable to the tenants and it does not afford equal protection to the landlords. There appears to be some force in this contention. There are measures provided in the Act for the protection to the tenant and not for equal protection to the landlord. Whereas a tenant can obtain relief by a summary application before the Controller the landlord cannot obtain any such relief. A landlord who claims eviction of a tenant or arrears of rent has to proceed by a regular suit in a civil court. We would suggest that in cases governed by the Rent Control Act a landlord should be able to obtain relief by way of the eviction of the tenant and also for arrears of rent by a summary petition before the Controller and that provisions to that effect should be made in the Act.

It was contended before us by certain witnesses that Aukaf property should be exempt from the operation of this Act. We do not think it expedient to exempt such property or any other property from the operation of this Act.

(4) On behalf of the landlords it was contended that the manner in which the fair rent is to be determined according to Schedule A of the Act was unfair to them. So far as houses are concerned the provisions of Schedule A for determination of fair rent appears to be reasonable but not so the provisions relating to shops. Shops are taken on rent for commercial purposes. It is, therefore, only fair that such premises as are utilized for income by the tenant should be liable to pay an adequate rate of rent. As already ob-

served when the Shop Rent Control Order came into force the term "fair rent" was defined to mean rent "not exceeding 75%" rent prevailing during the period of 12 months prior to 1st Baisakh, 1998, and this definition was deleted on 7th Sawan, 2005. In other words fair rent was rent prevailing during the basic period increased by maximum of 75 per cent. thereof. This rate namely increase of 75 per cent over the rent during the basic period was deleted with effect from 7th Sawan, 2005. The above increased rate remained in force for over two years. We think that the percentage of increase in the rent of shops should be higher than that fixed at present. We would propose that in Schedule A in clause 1(*b*) for 10 per cent. it should be 20 per cent. in the case of shops. We would also propose that in clause 3(*b*) for 10 per cent. and 15 per cent, 15 per cent and 20 per cent should be substituted respectively.

8. This Act does not exempt any building from its operation. It applied to Government buildings and those belonging to a local authority. In the House Rent and Shop Rent Control Orders it was provided that they shall not apply to Government buildings. We were told by witnesses belonging to the class of landlords that the Municipality had auctioned the lease of its shops at much higher amounts than charged previously. The President Municipality admitted that the Municipality had auctioned the lease of its shops and that higher amounts of rent were received. As no exemption has been made in the cases of Houses and Shops owned by the Municipality rents of shops could not be increased in the manner they have done.

9. In Jammu owners of property appeared before us and they protested that their houses were requisitioned by the District Magistrate for use of Government officers moving down to Jammu during winter which put them to great inconvenience, as they had to share their houses with persons whom they did not know and they did not like to let out their property but they were made to do so under compulsion. This appears to be a genuine grievance of the people who are made to part with their property under compulsion. The sooner this grievance is redressed the better.

10. The requisition is made under Defence Rules. The Defence Rules should be taken recourse to only in emergent cases and a citizen should in no case be put to inconvenience merely because the house is required for accommodating a Government employee. In very rare cases a citizen may be required to part with his property under his use for accommodating a Government employee. We would propose that requisitioning of the houses should be avoided as far as possible.

PROGRESS OF REHABILITATION OF DISPLACED PERSONS IN THE JAMMU AND KASHMIR STATE.

PROGRESS OF REHABILITATION OF DISPLACED PERSONS IN THE JAMMU AND KASHMIR STATE.

Jammu Province.

1. We now take up the question of the progress made in the rehabilitation of displaced persons in the State. This problem so far as Jammu Province is concerned, is more complicated and it will be dealt with first.

2. In the memorandum submitted by the Provincial Rehabilitation Officer it is stated as follows :—

> " The partition of India in August, 1947, resulted in an unprece lented exodus of refugees – Muslims and Non-Muslims - from the East and West Punjabs and their mass movement through the territories of the Jammu and Kashmir State. The refugees started pouring into the State from Kohalla to Bhadarwah all along the border.
>
> " Incursions from Pakistan started all along the border in October, 1947, which resulted in the displacement of the inhabitants of the State in large numbers, completely shattering normal life in these areas. This tragic state of affairs brought in its train the commotion, which ultimately developed into internal communal disturbances almost all over the Province of Jammu. Half starved people bereft of their wordly belongings started running for their lives from affected areas towards the cities of Jammu and other urban towns. At this critical juncture a Central Refugee Committee was formed under Council Order No. JE/13/47, dated 19th November, 1947. Appeals from Sheikh Sahib and other leaders of the National Conference brought, in a very short time, substantial donations to the tune of Rs. 3 lacs. About 80 thousand persons reached the city of Jammu which thus became a big refugee camp. Proper relief organisations were set up. Free food, rations, clothes, blankets, milk and soap were distributed among the refugees whose number went on soaring day by day. Refugee Relief Camps were also opened at Pullanwala, Jeorian, where relief was provided to the unfortunate victims of raids and riots. Refugees were housed in all types of Government and private buildings. Even residential houses were shared by the citizens with the refugees. Langers were organised where cooked food was supplied to thousands of uprooted people every day. The entire transport was commandeered and harnessed with the task of the evacuation of refugees from the disturbed areas to secure places. The work of the Central Refugee Committee was commendable.
>
> " The drain on the funds of the Central Refugee Committee being heavy.....the task of feeding the refugees was assigned by the

Government to Dharmarth Department on the 1st of January, 1948. This Department opened five Langers in the city of Jammu and provided cooked food to the refugees from the 1st of January to 13th May, 1948. Dry rations were also supplied by this department to refugees in Muffasil camps during this period. The Department incurred 15 lacs on this account from its own funds.

"The Relief and Rehabilitation Department was started in Baisakh 2005, under the Ministry of Health and Rehabilitation. This department took charge of the Refugee Camps in the Jammu Province on the first of Jeth, 2005. Relief Camps were immediately reorganised into 10 big units which were kept under the charge of ten paid Camp Officers with a number of sub-camps under the charge of Assistant Camp Officers. Dry rations were issued free to the displaced persons. Cloth, blankets, utensils were also issued to the deserving. Rations were also supplied to the refugees in Muffasil Camps. A large number of non-Muslim refugees from the Tehsils of Haveli, Mendhar, Bagh and Sudhnuti had collected in Poonch town which was completely cut off from the rest of the State even by Air in the last week of December, 1947. The population of the town at that time was 36,700 souls. Reports regarding shortage of food in this town were also received when food and rations valuing Rs. 3,18,741 was arranged to be dropped from Air at Poonch through Army Dakotas for free distribution amongst the displaced persons.

"The Government of India set their Relief Organisation in Jammu on the 1st of June, 1948. This organisation took over charge of the Refugee Camps in Jammu city on 29th of June, 1948. It established Refugee Relief Camps at Nagrota, Chatha and Company Bagh in addition to a Home for the unattached women and children at Frashkhana in Jammu city. The refugees who had for a number of months been living in the city of Jammu resisted joining these camps on one plea or the other. As a result of the continued persuasive efforts of the staff the number of displaced persons in camps ultimately rose to 32,000. Free rations, clothing and bedding were supplied to these refugees in addition to the tentage accommodation. Separate hospitals were opened to look after their health. A number of schools were established in Camps for the education of the children. This organisation worked at Jammu till 1951 when the camp was completely wound up after despatching for rehabilitation the last batch of the displaced persons. The cost on the maintenance of these camps is reported to be Rs. 260 lacs.

" Most of the displaced persons of our State moved to India, after their short stay at Jammu. They were admitted into Refugee Camps in India. Later about 3,000 dispalced persons originally admitted in Jullunder Camp were transferred to Hoshiarpur Relief Camp and then to Nagrota Camp in June, 1950. The relief camps in India were closed for displaced persons from India, some time in 1951, when the Refugee Relief Camp for Kashmir displaced persons was opened at Yole. The number of displaced persons in this Camp was 15,600. About 9,600 persons of this

Camp have also been rehabilitated. Out of these 4,047 persons have recently been rehabilitated in the State through the Joint Rehabilitation Board. 6,000 displaced persons are still in this camp awaiting rehabilitation. The expenditure incurred by the Government of India on the maintenance of relief camps at Yole ending 1952-53 is reported to be Rs. 98,35,000.

"The non-Muslim refugees joined the Relief Camps organised by the Government of India whereas Muslim refugees living in the Camps at Talab Khatikan and Mohalla Ustad could not be persuaded to join these camps. The number of persons in this Camp was 14,000. These camps, therefore, continued to function under the care of the State Rehabilitation Department. 13,527 persons out of these were rehabilitated in their homes and 473 infirm and invalids etc. still remain in Jammu city. Cash relief is still being granted to them through the Aukaf Committee. Cash relief amounting to Rs. 15,000 was distributed among Muslim destitutes in Samvat 2008.

"As the problem of rehabilitation mainly entailed the settlement of displaced persons on land the department of rehabilitation was transferred to the Ministry of Revenue in Bhadon, 2005. The department was immediately reorganised and put in charge of the Revenue Agency whereby the duties of the Provincial Rehabilitation Officer in Jammu were assigned to the Governor of Jammu and those of the District Rehabilitation Officer, Tehsil Rehabilitation Officers to Wazirs Wazarat and Tehsildars in their respective juridictions. On the abolition of the post of Governor the work of the Governor went to the Director General, Food & Supplies, Jammu, who was designated as Provincial Rehabilitation Officer. The work of Wazirs Wazarat similarly went to the Deputy Commissioners.

"The turmoil of 1947 enumerated in the preceding paragraph resulted in the displacement of approximately 6,53,300 persons from the Province as per details given below :—

S. No.	Name of district.		Muslims.	Non-Muslims.	Total.
1	Jammu	... ...	36,000	1,58,000	1,94,000
2	Kathua	... ...	12,000	71,000	83,500
3	Udhampur	... ...	38,000	33,000	71,000
4	Doda	... ...	23,000	25,000	48,000
5	Poonch-Rajouri	... ...	1,42,000	51,300	1,93,800
6	Mirpur	... ...	...	63,000	63,000
	Total	...	2,51,500	4,01,800	6,53,300

These figures are only approximate.....and do not include the number of persons who migrated to Pakistan, or are living in the enemy held territory or became missing.

" The number of non-Muslim refugees from areas within the enemy held territory, known as displaced persons from non-liberated area of the State is estimated at 91,000 persons. Most of the Muslim displaced persons migrated to Pakistan whereas some persons from Tehsil Ramban and Niabat Gulab Garh temporarily migrated to Tehsil Kulgam in Kashmir Province. Only 14,000 as already enumerated above joined the Relief Camp, Jammu."

3. Having studied the memorandum submitted by the Provincial Rehabilitation Officer, Jammu, and other evidence produced before the Committee, the displaced persons can be placed into the following three categories :—

(1) Persons who due to internal disturbances were displaced from their original villages and who in consequence migrated to other safe areas.

(2) Persons who were displaced from their original homes because of enemy action which areas were later on recaptured by the State. This area is called the "liberated area" and the displaced persons from this area are known as "displaced persons from the liberated area."

(3) Displaced persons from the areas which even now are under the enemy occupation and which areas have not so far been liberated. The refugees from this area are known as "displaced persons from the non-liberated area."

4. The displaced persons belonging to the first category are numerous and the action taken by the Government for their rehabilitation has borne fruitful results. On the return of normal conditions and as a result of the efforts of various good-will missions majority of these displaced persons returned to their homes. A very large number of displaced persons from Niabat Gool, Tehsil Reasi, migrated to the Tehsils of Kulgam and Anantnag. The residents of these Tehsils housed and fed these displaced persons and an amount of Rs. 40,000 was spent from the Government exchequer on them. By the end of year 2006, a bulk of these Gool displaced persons returned to their own villages. It appears that rehabilitation of this category of displaced persons was effected and expedited by the authorities with the co-operation of the local people.

5. An Ordinance was promulgated in the month of Chet, 2004,

for restoration of the property of the displaced persons. This helped considerably the rehabilitation of this category of displaced persons. They were also given timber for construction of houses. Some of these displaced persons have not gone to the borders due to the fear of raids from Pakistan. Efforts have been made to rehabilitate them in safer areas.

6. The next category of displaced persons mostly belonged to the border areas of the State. These people migrated to other parts of the State when their area was captured by the enemy and after the liberation of those areas from the hands of the enemy the Government persuaded the displaced persons to return to their original homes. Most of them have gone back to their original homes and resettled there. Some of these persons who had joined the camps were settled on their lands in their own villages under the plan of the Joint Rehabilitation Board. Out of this category, however, there is a number of people who belong to the insecure zones of the liberated areas and these people have not returned to their homes as yet. They have got lands in the interior where they felt safer and secure.

7. The problem of the displaced persons whose area, though liberated, is lying on the border has to a large extent been settled. There are certain matters relating to the allotment of lands which call for consideration. This will be discussed later. Some of the people of this category had joined the camps but most of them remained outside the camps.

8. The last category of displaced persons came from the non-liberated areas. Approximately 50,600 persons were admitted to several relief camps in India and in Jammu under the Government of India. Quite a large number of displaced persons belonging to this category, however, did not join any camps. This naturally resulted in two sets of displaced persons ; one who will be referred hereinafter as "Camp D. Ps." and the others as "non-Camp D. Ps." Amongst the former those who registered themselves have been called as "Registered D. Ps." and others who could not be registered for any reason have been called as "Non-Registered D. Ps."

9. For the rehabilitation of the displaced persons in the Camps at Jammu a Joint Rehabilitation Board was constituted in 1950. This Board was started with the mutual concurrence of the Government of India and the State Government. It was presided over by Lt.-General Tara Singh Bal. The main purpose of the Board was to devise measures for the rehabilitation of the displaced persons on the rolls of the Jammu Relief Camps. The Board prepared a

scheme for the rehabilitation of these displaced persons in the camps. The scheme was prepared after mature deliberations and consulting the representatives of the displaced persons and was approved by the two Governments. It was a well-planned and reasonable scheme and took into consideration all the important factors in the matter of rehabilitation. The first step taken was to assign different Tehsils to displaced persons of various Tehsils, detailed in Annexure E of the Scheme. The assigning of Tehsils was generally done after consultation with the representatives of the displaced persons. The figures of displaced persons given in the Annexure for rehabilitation were as follows :—

	No. of families.	Persons.
1. Displaced persons belonging to non-liberated areas ..	5,812	22,344
2. Diplaced persons belonging to liberated areas ..	2,144	8,669
3. Displaced persons from Pakistan.	191	832
Total ..	8,147	31,846

10. The Government placed as many as 8,922 blocks measuring 7,15,545 *kanals* 9 *marlas* of land situate in different Tehsils at the disposal of the Board. The area of land to be allotted to each family had been fixed by the Board at 8 acres of irrigated or 12 acres of non-irrigated land. This was the standard of block of land to be given to each family. It was allotted on the condition that if any part of the land was left fallow for two consecutive seasons it would be liable to be resumed and that the land should be actually cultivated by the allottee or a member of his family. The scheme provided for remission of land revenue for the first four crops and exemption from the levy of the share of evacuee landlord on the holdings for the first four crops. These last two concessions have not been finally decided upon and are under the consideration of the State Government. It also provided for continuation of free issue of basic rations upto the harvesting of the next crop. In the case of rehabilitation of persons other than cultivators, the gratuitous relief of rations and cash

doles was to be issued for nine months from the date of rehabilitation. One tent was to be temporarily issued to each resettling family to be used in the area for resettlement. Rehabilitation loan of Rs. 500 per displaced family was to be granted for (*a*) construction of houses (*b*) purchase of plough animals (*c*) purchase of agricultural implements, and (*d*) seeds. The land that was in the first instance kept at the disposal of the Joint Rehabilitation Board for allotment to the displaced persons was the evacuee property, and for this purpose Land Allotment Committee was constituted, but later on escheat and Khalsa land, was also, in some cases, kept at its disposal. The displaced persons from the liberated areas were also rehabilitated according to this Plan.

11. Out of a total of 8,500 families in Nagrota Camp, 5,500 were dispersed and rehabilitated according to the plan but 3,000 families belonging to Poonch refused to be rehabilitated according to the Board's plan. They had been allotted Rajouri Tehsil but only 200 to 300 families went to Rajouri and the rest did not agree to move there. The Board had consequently to surrender a large number of blocks in Rajouri Tehsil. Subsequently about 2,000 families were further settled in different areas and about 1,000 families remained yet to be settled. These families who did not like to disperse according to the plan, on leaving Nagrota Camp, formed themselves into subsidiary camps, not under Government control, at Simbal, Bhor and Badhial.

12. As the pressure on land increased particularly in Ranbirsinghpura and Jammu Tehsils, the unit of land meant for each family had to be reduced from 8/12 acres to 4/6 acres and recently when pressure became very acute it was further reduced to 2 acres. In cases where two acres were allotted the allottees have resorted to some other professions, agriculture being only a subsidiary occupation with them. Three months cash doles were given by the Commandant at the time of their dispersal and the balance was to be disbursed by the Tehsildars concerned. The loans from the Government of India were advanced only to those who settled on land.

13. After finishing the rehabilitation of Nagrota Camp D. Ps, the Joint Rehabilitation Board was given the task of rehabilitating the Yole Camp displaced persons also. These latter had been sent to PEPSU, Nurpur and Pathankot and about 500 families were settled near the Ujh bridge. This was in addition to 1,275 families from Yole already settled in Samba and Naushera Tehsils. It was stated by the Provincial Rehabilitation Officer that it would take about six months more to rehabilitate them fully.

14. The land allotted to these displaced persons on rehabilitation by the Joint Rehabilitation Board was 1,88,210 acres as detailed below :—

(*a*) 1,83,667 acres from the evacuee land.

(*b*) 921 acres from Khalsa and escheat land.

(*c*) 3,542 acres from Rakhs and Farms.

The Provincial Rehabilitation Officer has stated that the funds allotted by the State Government were mostly spent on the 'non-camp displaced persons.' He stated that besides lands *Taqavi* loans of Rs. 250 per family at an average were given from the State exchequer. In regard to statistics of the non-camp D. Ps. the Provincial Rehabilitation Officer has further stated that the total number of non-camp D. Ps. was estimated at 5,78,000 persons out of whom 5,60,000 have already got themselves rehabilitated. Cases of about 1,000 families, *i. e.* about 5,000 persons were pending at various centres, mainly because these families wanted land of their own choice and not what was available with the Rehabilitation Department. He has further stated that sufficient land was still available to accommodate the remaining families under rules, if and when they apply.

15. It may be added here that about 600 families of non-liberated area of Muzaffarabad district went to Jammu for rehabilitation. About them the Provincial Rehabilitation Officer has stated that "these displaced persons were given some land which they did not accept. They did not want Kandi land. They did not have their own houses. The Government have given them some land which is near Marh in Jammu." They have not been rehabilitated in Kashmir because according to the Provincial Rehabilitation Officer Kashmir no land was available there. This would show that the rehabilitation of Muzaffarabad displaced families has not so far been effected.

16. The Provincial Rehabilitation Officer, Jammu, has given in Appendix 'X' of his memorandum a statement showing contributions made by various agencies towards the Relief and Rehabilitation of displaced persons in Jammu Province :—

		Rs.
1.	Expenditure incurred by the Central Refugee Relief Committee, Jammu ..	3,00,000

		Rs.
2.	Expenditure claimed to have been incurred by Dharmarth Department on relief to refugees ..	15,00,000
3.	Expenditure incurred by Rehabilitation Department ..	56,11,170
4.	Cost of food rations dropped from Air at Poonch through Army Dakotas ..	3,18,741
5.	Cost of timber granted free to D. Ps. by Forest Department ..	7,03,731
6.	Cost of timber granted free to D. Ps. by Revenue and Evacuee Property Department ..	1,60,000
7.	Remission of land revenues ..	30,58,411
	Total ..	1,16,52,053

The details of expenditure under most of the above heads have also been given in the enclosures of the memorandum. All this will show that both the Government of India and the State Government spent huge amounts on rehabilitation of displaced persons and if their rehabilitation has not been complete and satisfactory it can only be attributed to lack of proper planning at proper time and to lack of experience as also due to great complications inherent in the solution of this most difficult problem.

17. A large number of witnesses appeared and deposed in regard to the question of rehabilitation at most of the places visited by the Committee and a large number of memoranda were also submitted to the Committee. From the oral and documentary evidence different problems from different places have come to the notice of the Committee.

18. After giving close and careful consideration to the various questions connected with the rehabilitation of displaced persons,

the Committee think that it will not be possible to discuss the questions raised at different places in detail and propose remedies therefor. The questions which have been raised are so large and of varied a nature that it would require lot of space and time to deal with them. The Committee would, therefore, propose to deal with those problems which are common to all the displaced persons in different parts of the State and would suggest generally the remedies for those intricate problems. Solutions which we propose to suggest will not be such as can be implemented immediately. These will require sometime for their implementation under the supervision of an authority appointed by the Government.

19. The Committee would, therefore, suggest that a whole time Officer should be appointed to look after the rehabilitation work. The Rehabilitation Department now is not an entirely separate department with separate staff. At one time the Governor of Jammu Province was appointed as the Provincial Rehabilitation Officer and after the abolition of the post of the Governor the duties of the Provincial Rehabilitation Officer were assigned to Lt.-Col. B. S. Samyal, Director General, Food and Supplies. From this it is clear that the Director General Food and Supplies had to do this work in addition to his normal duties. This consequently could not allow the Provincial Rehabilitation Officer to devote his whole time to the important work of rehabilitation. Wherever we have been we have found that the rehabilitation of D. Ps. has not been effected satisfactorily. There is general dissatisfaction among the D. Ps. of which the Government is well aware. We happened to see one of the camps referred to above, namely Simbal Camp. The people in this camp were very sore and going round the camp we were moved to great pity having seen the appalling condition of the surroundings of the tents in which the D. Ps. live. There were lot of cess pools about and although the Government is not directly or indirectly responsible for this camp yet the fact remains that it is a sad commentary on the implementation of rehabilitation plan. Five to six years have passed and it is not clear why efforts could not be made to settle them properly even at the places which the inmates of this camp had selected for themselves. Even those whom the Provincial Rehabilitation Officer claims to have rehabilitated, the impression we got in our hurried tours, are not properly settled. The magnitude of the work being great it is necessary to have an independent and whole-time officer for this work.

1. The Committee, therefore, proposes that the Department of Rehabilitation should be overhauled and re-organised and placed

incharge of a whole-time officer who should be a man of proved efficiency and tested integrity to be designated as Rehabilitation Commissioner with jurisdiction throughout the State.

2. This Officer should be provided with adequate staff of experienced and efficient hands preferably of his choice.

3. This Officer should be assisted by a Central Rehabilitation Committee consisting of officials and non-officials. The official members should be the Deputy Commissioner Central who will deputise the Revenue Commissioner and the Custodian Evacuee Property. There should be two non-officials who should be representatives of displaced persons from non-liberated area. The Provincial Rehabilitation Officer shall generally act on the advice of this Committee and take measures suggested by them.

4. There should be District Rehabilitation Committee in such districts as may be necessary and those District Committees should be presided over by the Deputy Commissioners of the Districts. Each of these Committees should be composed of two officials and two non-official representatives of the displaced persons. The Deputy Commissioner concerned shall be the District Rehabilita-Officer and shall generally act on the advice of the Committee as far as practicable.

5. The Government shall make detailed rules in regard to the respective functions of the Central Rehabilitation Committee and the District Committees, both in regard to the conduct of business and in regard to their powers. If necessary, legislation should be taken up for grant of necessary powers in this behalf.

6. The District Committees shall work under the Central Committee and submit monthly reports of progress to the Central Committee which will later on submit these to the concerned Ministry after proper consideration and comment.

7. The Rehabilitation Commissioner will tour all the districts and watch the progress of rehabilitation in the districts removing all the difficulties and grievances which the displaced persons put before him in consultation with the District Rehabilitation Committee as speedily as possible. He will also take advantage of the evidence collected by us and will in his very first survey of about three to four months submit a detailed report to the Governmnet showing the progress of rehabilitation made so far. He will also ensure as to how far the suggestions made by this Committee have been implemented.

8. The Committee have thought over this matter very carefully not only at this time but even during the course of the inquiry and they are of the opinion that the most suitable person for appointment as Rehabilitation Commissioner would be Brigadier Udhey Chand. Should this suggestion find favour with the Government, the extra cost involved on the appointment of this gentleman would not be much. The Brigadier is already drawing a pension of Rs. 400 and if according to rules the Government were to allow him the pay he was drawing at the time he was put on the retired list they shall not have to incur an additional expenditure of more than Rs. 400 per month. This Officer, as is known to the Government, is not only a displaced person himself but has acted as Administrator with very wide powers delegated to him by the Government during the most troublesome days of 1948-49. His main duty those days was to rehabilitate displaced persons within his jurisdiction and he has played an important role in this behalf.

9. We are now enumerating some of the main grievances of the displaced persons which have come to our notice during our tours and our suggestions pertaining to them :—

I. The Joint Rehabilitation Board has no doubt settled on land a large number of displaced persons. These lands mostly belong to the evacuees. Under the Administration of Evacuee Property Act the ownership of evacuee land vests in the Custodian in trust for and on behalf of the evacuee. The Government, therefore, is not competent to transfer ownership right of such lands to the allottee. All that the Government can do is to allot all interests and rights of the evacuee in such lands short of ownership rights. The displaced persons knowing that they have been settled on evacuee land do not feel secure and do not put in their maximum efforts to improve those lands. Their feelings are, as has been deposed before the Committee, that they will be ejected from the land as soon as the real owner comes. Some instances have been cited where displaced persons were dispossessed of the lands on the return of the evacuee. It was represented before the Committee that assurance was given to them by the Joint Rehabilitation Board that they would not be dispossessed unless some other land was found for them.

We are informed that the Government have passed an order No. R-9410-32/52 dated 28th January, 1952, which reads as under :—

> " The Hon'ble Revenue Minister has been pleased to observe that in such cases where evacuee lands have been allotted to a displaced

person and the evacuee returns, the latter (evacuee, should be given other cultivable land for about a year by that time land for the displaced person may be found out."

(*i*) Most of the displaced persons do not know about this order and hence there is uncertainty in their minds. The displaced persons settled on these evacuee lands should be informed of this order and they should be assured that they would not be disturbed from the land on the return of the evacuee unless they are given some other land instead.

(*ii*) The displaced person should be entitled to compensation for any improvement effected by him on the evacuee land with the permission of the Custodian.

(*iii*) If the displaced person is asked to vacate the evacuee land allotted to him and he is given some other land instead he should be given fresh financial aid to settle on that land, where necessary.

Unless the displaced person has a feeling of certainty and assurance that for all practical purposes he is permanently settled he will not feel mentally rehabilitated nor give his best attention to the cultivation of the land. We think that if he is given the assurance that on the return of the evacuee he will not be displaced unless some other land is allotted to him and that he will be given financial assistance when necessary at the time of resettlement and will be paid for the improvements which he has effected on the evacuee land with the permission of the Custodian, he will feel rehabilitated to a great extent.

II. The Joint Rehabilitation Board fixed a certain standard of 8/12 acres and later on revised it to 4/6 acres. The displaced persons deposed before the Committee that these standards have not been adhered to in majority of the cases.

The pressure on land is certainly very acute, but allotment of units of land below four acres irrigated or six acres unirrigated would not be helpful. The unit should be such that it should be sufficient for the maintenance of a family. In this behalf we would suggest that after proper survey a standard acre should be fixed keeping in view the productivity of the soil in those districts and in terms of that standard acre displaced persons should be allotted lands in different districts, commensurate with the strength of the family of the allottee.

An acre of land in Ranbirsinghpura may be considered to be a stantard acre and if two acres of land are allotted to a family of five in Ranbirsinghpura, such a family, if settled in Udhampur, should be allotted at least four acres, as two acres of Udhampur land would be approximately equal to one standard acre of Ranbirsinghpura.

III. It was represented to the Committee by the displaced persons that they would not like to be separated from their kith and kin and live at a great distance from each other. It was stated by them that they have been victims of misfortune, having lost all their earthly belongings, their near and dear ones, and now they would like to live together, as far as possible. This appears to be a natural result of all what these people had to experience in the past and efforts should be made that the displaced persons of a Tehsil or a particular locality are settled in compact areas as far as possible. Likewise persons closely related should be allotted lands near each other.

IV. It was represented before the Committee that displaced persons from West Punjab had come and settled on lands in certain Tehsils of Jammu Province. Different figures have been given by different persons in regard to the number of persons who came from West Punjab and settled on lands in our State. It was contended that these people had obtained allotments of lands in the East Punjab and had also occupied lands in our State and had thus obtained double allotments.

In regard to this it appears that only those persons get land in East Punjab who had lands in the West Punjab and not those who were landless. The Provincial Rehabilitation Officer has stated that there were only 3,000 persons who had come from that side and that 2,340 out of them had already returned to East Punjab. It was further stated that those persons were not allotted lands by any authority or person but that they had occupied and cultivated the lands in the State which they, on their arrival from West Punjab, found lying vacant.

The Committee proposes that the Deputy Commissioners of each district should find out the number of persons (Non-State Subject) in their respective districts who have migrated from outside and have settled on lands in their districts. They should further ascertain whether these persons have got any allotment outside the State or not. In case it is found that a displaced person from outside who has been allotted land in the State, has also been

allotted land outside the State, in such cases the displaced person having received double allotment should be ejected.

It has also been represented before the Committee that the displaced persons from outside who have received allotment in the State also should be ejected so that the land under their accupation may be available for the displaced persons of the State. To us it appears that in the ordinary course of things no land should have been allotted to a displaced person from outside the State nor he should have been permitted to occupy any land on his own. May be that State Subject D. Ps. who have gone out of the State have been given lands in India for their resettlement. The correct procedure would have been that Government of India did not allot them land likewise in India. This is, however, a matter which should be examined by the State Government and taken up with the Government of India, if necessary. Certainly no displaced person whether State Subject or not should be in receipt of double allotment and efforts should be made to eject such double allottees immediately.

V. It was represented before the Committee that the local population had taken possession of evacuee lands and thus deprived the displaced persons of those lands. It was contended that if locals were dispossessed of such evacuee lands large areas of evacuee lands would become available for allotment to displaced persons.

In regard to this contention the locals may be divided into two categories, namely locals belonging to secure zones and those belonging to insecure zones.

So far the locals of secure zones are concerned, they have no right over the evacuee land, and they should be dispossessed of those lands immediately and the lands so released should be allotted to displaced persons.

The case of locals belonging to insecure zones, if any, is somewhat different. If they cannot be forced to go to their own lands which are situated in insecure zones, they have to be allotted lands in secure zones and if they are already in possession of evacuee lands they may not be dispossessed, until such time as they can be safely placed on their own lands.

VI. Some landless persons of the locality have also obtained evacuee lands. Evacuee lands should not go to them. The escheat

and Khalsa lands should be utilized for being given to the landless people but not the evacuee lands. Evacuee land should, as a matter of principle and priority, go to the displaced persons only.

VII. There was a Government Order No. 1476-C of 1950, dated 16th December, 1950, which was to the effect that "all agricultural land left by the migrants should be pooled for allotment to displaced persons only and that persons owning lands in safer zones and partly rehabilitated villages and holding evacuee lands in the interior should be dispossessed of these allotments."

This Government Order was superseded by Order No. 913-C of 1951, dated 7th August, 1951, which directed that :—

> "Locals owning lands less than the prescribed standard, *i. e.* 4 acres irrigated or 6 acres unirrigated shall be disposed of such part of evacuees' land in their possession as together with their own land exceeds the prescribed limit, *i. e.* 4/6 acres."

Landless tillers holding evacuee lands are under the above Order likewise permitted to hold such lands to the extent mentioned above. It is under this Order No. 913-C of 1951, that land was given to locals and landless persons even though they were in safer zones. Displaced persons came from areas which were held by the enemy and, therefore, in the Committee's view their right to the land left by evacuees was much greater and, therefore, the first Order, namely No. 1476-C of 1950, was more just and equitable than the one, namely 913-C of 1951, which superseded it. It has to be recognised that locals living in safer zones and landless persons can claim lands from Khalsa and escheat lands and not from evacuee lands. The Committee would suggest the supersession of Government Order No. 913-C of 1951, and the restoration of Order No. 1476-C of 1950.

Moreover it has been brought to our Notice that the locals under Order No. 913-C have obtained allotments at different places or more than one allotment in the names of different members of the family. The result has been that one family has got more land than its needs. The Deputy Commissioner of each District will try to ascertain such cases and get excess land released from them.

VIII. It was deposed before the Committee that a displaced person's unit was made up of fragments of land spread over different places which cannot be managed by him properly. The

Committee think that so far as possible there should be consolidation of land given to each family so that the family may have one consolidated block and not plots sitaute at different places.

IX. (*i*) It was represented to the Committee that some of the displaced persons who did not belong to the Agriculturists Class had also been allotted land. Such displaced persons like traders residing in towns should not have been given lands. There is a good deal of force in this contention and the Committee propose that people who were or are traders should not be settled on land. They should have correctly been advanced business loans to rehabilitate them in their vocations.

(*ii*) Village artisans—carpenters, blacksmiths, barbars etc. should be rehabilitated in each village so that the village community needs may be satisfied from the village itself, and pressure on land released to that extent. These village artisans should be given land only for construction of houses and necessary loans for constructing the same.

X. It was represented before the Committee that the loans advanced to the displaced persons on dispersal from the Camps had not in some cases, been utilized for the purpose for which they were meant because the lands allotted were not fit for cultivation with the result that these amounts were spent on other necessaries of life.

We have noticed that after the loans were advanced to the displaced persons there was no check to find out as to how they should utilize such loans. For example a loan meant for the purchase of bullocks and agricultural implements, should have been advanced in kind, *i. e.* bullocks and agricultural implements when needed by a displaced person should have been supplied to him or the displaced person should have been asked to purchase these things on his own to the satisfaction of local Revenue Officer. This has not been done. And now most of the displaced persons have neither bullocks nor agricultural implements to cultivate the lands allotted to them. The lands are lying fallow and the allottees are feeling quite helpless. In such cases claims for fresh advance of loans is the necessary result.

XI. The time for repayment of loans has commenced. It would be proper if payment of instalments already fixed is revised and the amount of each instalment reduced as may be within the paying capacity of the displaced persons.

XII. There is a great grievance among the non-camp D. Ps. that they have not been given the same facility as has been given to the camp D. Ps. Their contention is that they did not join the camps and thus did not burden the Government with extra expense. It was not just that their claims should have been ignored at the time of allotment of lands and facilities given to the D. Ps. Similarly the non-registered D. Ps. have complained that they have also been deprived of certain concessions given to D. Ps. in general, because of the fact that they had not got themselves registered. Regarding this another grievance is that the assurance given to them at the time of dispersal of the camp for spliting their ration cards—in cases in which a joint ration card had been issued in favour of one family—has not been fulfilled.

Another important class of non-camp D. Ps. is that of the Government Servants belonging to liberated or non-liberated areas as were displaced. It may be contended that their case is not so hard as the case of other D. Ps. who were, besides the other miseries commonly shared by them and this class, deprived of their earning the livelihood too. That may be correct so far it goes but the fact remains that even these Government servant D. Ps. have lost their hearths and homes and may be, some of their family members and near relatives and have not been given any facility in the whole scheme of rehabilitation of the State. The Committee understand that they were perhaps given some G. P. Fund advances out of their own accumulations for construction of their houses etc. which were recovered under certain rules. As no substantial aid has been given to them by the Government their case is specially brought to the notice of the Government for giving them at least the same, if not, better, facilities as given to other D. Ps.

The contentions of the non-camp D. Ps. and those of unregistered camp D. Ps. are forceful and deserve consideration. If these D. Ps., on their own initiative, worked for their living that should not have handicapped them from obtaining the benefits and amenities which were given to other registered and camp D. Ps. Incidentaliy the claim of the non-camp D. Ps. is stronger than the unregistered camp D. Ps. Now that the time of rehabilitation has come they should be given the same facilities as have been given to camp D. Ps.

It is suggested that complete census should be taken of all non-camp D. Ps. as well as unregistered D. Ps. Such displaced persons should be informed by notice published in the Government Gazette and beat of drum in all Tehsil headquarters and through

radio to make applications for registration before the District Rehabilitation Committee. One month's time should be given for making such applications. After receipt of such applications a complete list of non-camp and unregistered D. Ps. shall be drawn up with all necessary details. Those amongst them as have not received benefits given to other D. Ps. should be given the like relief.

XIII. All evacuee houses in the villages should be allotted to displaced persons. Locals who have their own houses and have taken possession of evacuee houses should be made to vacate the evacuee houses and to live in their own. The evacuee houses should be given to the D. Ps. on nominal rents.

XIV. Rehabilitation of Muzaffarabad D. Ps. has not yet been effected. Their rehabilitation should be taken up immediately. Those families who were agriculturists should be rehabilitated on land and others should be advanced loans for trade and crafts. In the case of latter they should further be given one *kanal* of land per family from Khalsa land for construction of houses near town and urban areas.

Some D. Ps. have expressed their desire to be rehabilitated in Kashmir Province but the Provincial Rehabilitation Officer Kashmir has stated before the Committee that due to scarcity of land in the Valley they could not be rehabilitated there. In the course of inquiry at Uri the Committee was told that land for 32 families could be easily provided for in that Tehsil. Out of these Muzaffarabad D. Ps. as many families as can be allotted land in Tehsil Uri should be rehabiliatted there.

XV. Many urban families at present are living in Jammu and other towns and adjoining places and their main problem is housing. A scheme has been prepared by the Rehabilitation Department for establishing a colony for such families in the vicinity of Jammu where 700 families will be settled. This scheme has not even yet been finally sanctioned. Steps should be taken for early sanction of the scheme and its execution. A small model township should be established with all amenities. The houses should be properly planned before their construction is taken in hand. The Committee was given to understand at Sunderbani that there also the Government was contemplating a small township of which we were shown some blue prints there. The Government should implement these schemes at top speed. This will equally apply to what may be contemplated by the Government to be done elsewhere.

XVI We have visited some places where D. Ps. have put up their temporary hutments for their residence and we noticed that no sanitary arrangements were made for the residents of these hutments. In Jammu malaria already takes a huge toll of life and no preventive measures have been taken in those areas against malaria. The Committee found stagnant water collected near these hutments which would breed mosquitos and will result in malaria epidemic. It is, therefore, suggested that precautions should be taken to eradicate malaria from the places allotted to D. Ps. for residence and proper sanitary arrangements made for these residential localities.

XVII. Adequate educational facilities are not provided for the children of D. Ps. There is no High School from Akhnur to Poonch in which area 20.000 D. Ps. have been settled. A High School should be provided somewhere between Akhnur and Poonch.

At the request of the Committee the Inspector of Schools has prepared a detailed proposal in regard to the educational facilities for the children of the D. Ps. The Committee stronoly commend that proposal for the consideration of the Government.

Further the following suggestions may be considered by the Government :—

(*i*) The children of D. Ps. as a class be exempted from fees in Schools and Colleges.

(*ii*) The children of D. Ps. should be granted special scholarships in Schools and Colleges and for vocational and technical training.

(*iii*) Free supply of books should be made to the children of D. Ps. and it was suggested to the Inspector of Schools that the books of the children going to higher classes may with advantage be collected by the School Staff and distributed among the children of the lower class free of charge and the children from whom these books are taken are compensated to enable them to purchase books.

XVIII. It was represented before the Committee that as a result of the raids of the Poonch *illaqa* a number of public servants of the Poonch Administration were placed on the waiting list and they were given to understand that on restoration of normal conditions they would be reabsorbed as far as possible. It was further

represented that in consequence of the integration of the administration of Poonch *illaqa* with that of the State very few of the persons on the waiting list were absorbed and the rest were retired. It was represented that these persons were retired prematurely. According to them this had added further to their miseries. Their prayer was that they should be re-appointed on suitable vacancies. The Committee are of the opinion that the cases of persons who are on the waiting list and have been retired should be reconsidered and steps taken for reabsorbing those who are otherwise fit for service, and have at least five years or more of service to put in. Some of them have applied for pensions but due to the fact that all the Departments of Poonch have been amalgamated with those of the State their records cannot be completed easily with the result that their pension cases could not be settled so far. It is suggested that suitable steps should be taken and the concerned departments impressed upon to complete their pension cases without any further delay.

XIX. It was represented before the Committee that displaced persons have deposits in the Mirpur and Muzaffarabad branches of the Jammu and Kashmir Bank Ltd. which have not so far been paid to them. It appears that the question of the claims of creditors and depositors of the Jammu and Kashmir Bank Ltd. came before the Government and under Order No. 1124-C of 1951, dated 20th September, 1951, a Committee was appointed to go into the matters arising in connection with the claims of creditors and depositors of the Mirpur and Muzaffarabad branches of the Jammu and Kashmir Bank Ltd. and to suggest ways and means for safeguarding the interests of both the Bank and creditors and depositors. Nothing substantial, however, appeared to have been done for two long years.

In the meantime under Ordinance No. III of 2008 institutions and hearing of suits and other proceedings against Banking Companies were stayed for a period of one year. This Ordinance expired on 24th Assuj, 2009, and another Ordinance No. III of 2009 was promulgated and published in the Government Gazette dated 15th Katik, 2009, staying for a period of six months institutions of suits etc. against Banking Companies.

By another Government Order No. 63-C of 1953, dated 28th January, 1953, the previous Committee appointed under the above Cabinet Order was dissolved and it was ordered that the Finance Minister shall in order to meet the legitimate demands of the creditors and depositors of Mirpur and Muzaffarabad branches of the

Jammu and Kashmir Bank Ltd. and after proper scrutiny dispose of them within a couple of months in the light of the judgment of the High Court in case Barkat Ram *vs.* J. & K. Bank Ltd. There is no reason why the suits of the private individuals against the Banking Companies should be stayed any longer. No depositor who has a claim against the bank should be debarred from taking recourse to legal remedies, if so advised. This would not only be equitable but also in the interests of the Banks themselves as otherwise it will reflect adversely on the financial standing of a Bank itself if the claims against that Bank are stayed like that.

The Finance Secretary was examined and so was the General Manager Jammu and Kashmir Bank Ltd. The General Manager has given a detailed list of depositors and creditors whose claims are in dispute. The Finance Secretary has said that certain test cases were being examined by the Finance Minister and after orders thereon were passed the disposal of other cases would be easy. He assured the Committee that by the end of Baisakh, 2010 these cases would be disposed of. The Committee is now (mid Jeth, 2010) informed that the Finance Minister has not so far been able to take any action in implementing the Cabinet Order and that, therefore, no headway has been made in this matter so far.

The observations made above should apply equally to deposits made by displaced persons in different Co-operative Banks. All the Co-operative Banks should settle the claims of depositors and creditors within a certain fixed time. In regard to Poonch, however, we have a definite comment to make. Witnesses who appeared before the Committee there complained in very strong terms that not only their shares have not been paid back after the liquidation of various Co-operative Banks but also that their deposits had not been refunded to them so far. It is not clear why the Co-operative Department has not taken any action in the matter during the last six years. The Committee feel that this matter has not been brought to the notice of the Government so far and, therefore, no effective action has been taken. The Government will be well advised to institute an immediate inquiry and expedite settlement.

XX. Post Offices shall be opened and roads constructed for the D. Ps. Well equipped hospitals with proper nursing staff is badly needed at different places and should be provided for the benefit of the locals in general and the D. Ps. in particular.

XXI. Widows, orphans and old men who have been allotted lands but are unable to cultivate themselves should be allowed to get their lands cultivated through relatives or agricultural labour.

In Rajouri 45 widows complained that they had not been rehabilitated so far. They asked for land and there is no clear reason why they should not be provided with some land to enable them to eke out their livelihood.

XXII Some State Subject D. Ps. who are temporarily settled in PEPSU and Bhopal had expressed their desire to come to the State and settle where their relations had been rehabilitated. They have asked for conveyance facilities and other financial aids. These cases should be considered early and sympathetically.

XXIII. Some non-camp D. Ps. have not been granted timber for the construction of houses which should be provided to them now.

XXIV. The Committee are told that there is much land available towards Kalakot Coal mines. That part of the country should be developed and roads provided in order to settle some of the D. Ps. on that side of the country. Moreover the coal mine can be exploited which will provide employment to a number of D. Ps. and incidentally solve the fuel problem in Jammu.

XXV. A number of families from Yole Camp have been allotted lands on the bank of river Ujh. This land is flooded when the river is in spate. These families who are settled there are likely to be displaced again. In order to avoid further misery to these families, the Government should take immediate steps to either make these lands free from danger of flood or shift them to some other place and allot them lands there.

Kashmir Province.

10. The Director General Rural Departments who is also the Provincial Rehabilitation Officer for Kashmir has stated in his memorandum as follows :—

"The total number of displaced families in Kashmir Province which migrated from the raid affected areas of that Province, was about 7,000 comprising of 42,136 souls. These families were given free rations and free shelter and also provided with other amenities in Srinagar city. Besides these families, some 40,000 people from Tehsils Reasi and Ramban, Pogal Paristan *illaqa* etc.crossed from Jammu to Kashmir Province, where they were temporarily given shelter in Tehsils of Kulgam and Anantnag. In case of the latter category both Government and the people co-operated in giving shelter to these displaced persons. When, however, conditions in Jammu Province returned to normal, these people were sent back for resettlement to their original homes in Jammu Province.

On feeding both the above categories of refugees, the Government spent a total sum of Rs. 12,15,774/8/8.

"The total number of displaced families belonging to liberated and non-liberated areas of Kashmir resettled by this Department ending Magh, 2009, involving an expenditure of Rs. 9,05,836 stands as 5,962. The following table will show the details.

	Families.	*Amount.*
		Rs.
(1) Families belonging to liberated area of Kashmir resettled in their original places of residence after advancing loans for reconstruction of houses to them ...	5,096	8,14,331
(2) Families from Tawbut resettled at Kilshahi and Kalgai Uri	119	18,300
(3) Families belonging to liberated area of Kahsmir resettled as traders ...	67	25,450
(4) Families belonging to Uri Tehsil District Muzaffarabad resettled in their original places of residence.	21	11,010
(5) Families belonging to Muzaffarabad (non-liberated area) resettling as traders in Kashmir.	69	17,930

	Families.	*Amount.* Rs.
(6) Families belonging to Muzaffarabad District (non-liberated area) resettling in Jammu as Agriculturists to whom transport charges alone have been paid by this department.	590	18,815
Total ...	5,962	9,05,836

"In addition to the above, 65 displaced families belonging to the liberated area of Kashmir encamped in Relief Camp Yole (Kangra) were sent to this place for their parmanent resettlement in their original places of residence. Out of these 65 families only 55 families have been advanced loans at Rs. 500 each for construction of their houses.

"A total amount of Rs. 9,14,281 has been advanced to the displaced families in connection with their resettlement as various kinds of loans from 2005 ending Magh 2009 and in addition to this an amount of Rs. 19,055 has been paid as transport charges to refugees from Muzaffarabad district for moving to Jammu and Uri for resettlement. Besides an expenditure of Rs. 1,57,853 has so far been incurred as cost of timber and mulberry wood supplied free of cost to these resettling refugees".

11. The Provincial Rehabilitation Officer has further stated in his memorandum that :

"In the beginning three middle schools were actually opened for the refugee children in the vicinity where they were predominently living. Aid for books, college, school and university fees were being provided by this Department to deserving cases. An expenditure amounting to Rs. 3,631/11/- has been incurred in this connection."

12. As already stated the problem of rehabilitation in this Province was not so difficult as in Jammu Province.

13. The Director General has stated that 592 families of Muzaffarabad District remained in Srinagar for three years and were then sent to Jammu for rehabilitation because land was not available in Kashmir Province for their rehabilitation. Between 100 to 200 families of Handwara were not willing to move back to their original houses and all efforts to persuade them to do so in the past did not meet with success. They preferred to remain in Baramulla. The Director General further said that he had now received information that these families were now willing to go back to their original places.

14. There is the problem of rehabilitation of Muzaffarabad displaced families and that of the displaced families of Handwara.

In regard to these the following suggestions are made :—

(1) In regard to 592 families of Muzaffarabad who have gone to Jammu, their rehabilitation is now the responsibility of the Jammu Provincial Rehabilitation Officer but out of these families some can be easily settled in Uri Tehsil as has been stated by a responsible witness who appeared before us in Uri. This witness has been connected with the rehabilitation work and his suggestion is worth consideration.

(2) The Provincial Rehabilitation Officer will personally contact the Handwara displaced families and take necessary steps for their rehabilitation in their original places and afford to them all necessary help by money in this connection.

(3) Some persons who claim to be Muzaffarabad displaced persons have suggested allotment of some land situate in the city of Srinagar for construction of houses. Their application has been forwarded by the Director General to Government. The Director General should personally examine the plots suggested by the displaced persons and see if their allotment is feasible and then make definite suggestions to the Government.

(4) At Baramulla we received complaints from displaced persons that they had to encounter lot of difficulties in getting the loans from the Rehabilitation Department which were sent to them by the Government of India. It was brought to our notice that a displaced person had to spend to the extent of Rs. 100 to get the loan of Rs. 500 already sanctioned in his favour and thus he received only Rs. 400 out of this loan. This was put to the Provincial Rehabilitation Officer in the course of his evidence before the Committee and his reply to this was that the amount spent in getting the loan was an exaggerated figure. We see no reason to disbelieve the statement before us by a displaced person at Baramulla and the fact remains as confirmed that displaced persons had to part with some portion of the loan in order to get the loan. This is a despicable state of affairs and the Provincial Rehabilitation Officer incharge of rehabilitation should enquire into such cases and take suitable action against the delinquents.

(5) The recovery of loans given to displaced persons should be postponed by a year or so and easier and smaller instalments should be fixed for their payment.

15. The Committee feels that the Provincial Rehabilitation Officer (Director General Rural Departments) has exercised unlimited powers in the matter of distribution of cash doles and loans. Whereas there was some sort of planning in Jammu the Committee

feels that there was no such planning whatsoever in Kashmir Province. Everything seems to have been left at the discretion of the Provincial Rehabilitation Officer so much so that his powers of determining financial aid to an individual displaced person or a family was unrestricted. Had there been some planning certainly the Government could have fixed certain limits, laid down certain schedules to avoid subsequent confusion and dissatisfaction among the D. Ps. in this Province. This was put to the Provincial Rehabilitation Officer during the course of his evidence before the Committee and he stated that proper accounts had been maintained for the entire period which had also been audited by the Accountant General but he did not say as to how much out of the total expenditure incurred by him had been admitted in audit and as to how much held under objection for want of proper accounts, sanctions, etc. etc.

16. There has been displacement of 47 families in village Matayan of Kargil Tehsil. The Matayan displaced persons are mostly living in different villages in Niabat Gandarbal. In our tours towards Gund two of them met us at Gund. On ascertaining facts from them we were told that no list of such D. Ps. existed any where. The Naib-Tehsildar who happened to be there was asked to send a list of these D. Ps. to the Committee as he had not an exact idea as to how many of them had gone back to their original places and how many were moving about as nomads in the city of Srinagar and round about. He has now sent a list from which it appears that 13 or 14 families have returned to their village and 32 families consisting of 138 members are yet living the life of nomads in Gandarbal Niabat. Under Government Order No. RC-142/51, dated 24th December, 1952, a sum of Rs. 3,000 has been sanctioned for their relief. This amount is chiefly meant for construction of houses which work has not so far been taken up as the village was under snow.

17. The Deputy Commissioner Ladakh should lose no time in utilizing this amount and requisitioning more money if needed. In the meantime, the Deputy Commissioner should arrange for their free rations etc. through the Tehsildar Srinagar. They should be provided with every help and benefit until their complete re habilitation in their own village.

18. It was brought to notice that there was displacement of a number of families in Zanskar *illaqa*. The statistics in regard to them have not been compiled nor was any relief given to them so far. The Deputy Commissioner Leh should prepare a list of these displaced families immediately and also a detailed scheme for their rehabilitation and submit the same to Government for orders and

in the meantime relief in the form of free rations etc. should be provided to them. No time should be lost in rehabilitating these displaced families.

19. These items, we recommend, should be on the top-priority list of the Rehabilitation Commissioner whose appointment has been recommended while dealing with Jammu rehabilitation.

WAYS AND MEANS TO BE ADOPTED FOR REHABILITATION OF EX-SERVICEMEN OF THE STATE.

WAYS AND MEANS TO BE ADOPTED FOR REHABILITATION OF EX-SERVICEMEN OF THE STATE.

1. The last question referred to the Committee for report relates to the ways and means to be adopted for rehabilitation of *ex*-servicemen.

2. A large number of persons belong to martial class in our State. They man not only the State Forces but also Indian Forces. In both the World Wars the soldiers from our State displayed great martial talents, bravery and devotion to their country and earned an ever-lasting good name for the State. The State is deservingly proud of them.

3. On the termination of the World War II large numbers of our soldiers were released from the Indian Army and they returned to their homes. Statistics of *ex*-servicemen in Jammu and Kashmir State Forces show that Indian Army pensioners in Jammu Province are 10,689 and in Kashmir Province 1,000, and from the Jammu and Kashmir State Forces 6,500. There are approximately 30,000 *ex*-servicemen in the Jammu and Kashmir State, comprised of Indian Army 60 per cent, Jammu and Kashmir State Forces 30 per cent and Jammu and Kashmir Militia and Border Police 10 per cent. After the Pakistani and tribal raid on our State in October, 1947, the State Forces defended the borders of the State and quite a large number of them lost their lives in the defence of their country. When the Indian Army came to the aid of our State, the State Forces worked under their command until 1st September, 1949, when their entire maintenance and command were taken over by the Indian Army. At that time some regiments of the State Forces were disbanded resulting in throwing out a large number of them out of employment. There are, therefore, *ex*-servicemen who are retired or discharged in the normal course from the State as well as the Indian Army, secondly *ex*-servicemen who were discharged at the termination of the World War II, and lastly *ex*-servicemen who were disbanded when the command of the State Forces was taken over by the Indian Army in September, 1949.

4. Figures relating to *ex*-servicemen of Jammu and Kashmir State Forces available are as under:—

1.	Ex-servicemen of Jammu and Kashmir State Forces released or discharged after 1st September, 1949, living within the State ..	3,524

2,	Ex-servicemen of Jammu and Kashmir State Forces released or discharged after 1st September, 1949, who are living outside the State ..	1,480
3.	Ex-servicemen of Jammu and Kashmir Forces released or discharged on medical grounds from 1st November, 1947, and onwards (Disability pensions) ..	423
	Total ..	5,417
4.	Number of families of serving personnel of Jammu and Kashmir State Force residing in the State ..	7,801
5.	Number of deceased personnel of Jammu and Kashmir State Forces killed or died in action with effect from 1st November, 1947, and onwards (Family pensions) ..	927

5. Not only did the disbandment of some of the regiments of the State Forces in 1949 come almost unawares but the conditions which the soldier had to face on return to home were also not as were expected by him. The soldier had to fall back upon land but due to land reforms introduced in the meantime he did not find it easy to resort to his original profession of agriculture. The largest numbers comprising the State Forces came from Kandi area mainly because lands in Kandi are unproductive and the dependants on this land had to seek their living from some other source. So they joined Army. The *ex*-servicemen found their lands under the occupation of tenants who had mostly been raised to the status of protected tenants and could not be ejected easily. This was followed by the Big Landed Estates Abolition Act under which the proprietary holdings of all persons including *ex*-servicemen were reduced to a maximum size of 182 *kanals* excluding orchards, Kahi Krisham areas, Araks, Kaps and such lands including those used for raising fuel or fodder as were unculturable. This Act applies even to such lands as had been granted in recognition of meritorious services in war. The difficult situation in which an *ex*-serviceman found himself in the above circumstances can easily be imagined, and needs no description. His difficulties particularly became very grave because due to the speed with which political and economic changes took place he did not find time enough to adjust

himself to the new circumstances. A retired Military Officer of high rank has stated in his memorandum :—

"Soldier is nothing but an armed civilian and on retirement he has to revert to his civilian fold. He dare not live in isolation but has to share the common fortunes and misfortunes of the land of his birth. He is liable to be influenced by situations political, economic and social obtaining at any time. Discipline, training and experience acquired during service stand him in good stead in time of ferment and commotion. He can, if he is not of weak moral fibre, exercise a moderating influence on the unruly and turbulent elements of society. If he is attended to that is, if he gets primary needs of life and does not feel neglected, he can be safely depended upon in moments of trial and tribulation. Since ours is a dynamic age, he needs all the more help and guidance to direct his energies towards constructive and nation-building activities".

6. There is a good deal of force in all that has been said above by the Officer ; and in the larger interests of the country as a whole it is necessary that steps for rehabilitation of *ex*-servicemen on a satisfactory basis should be taken up to ensure them a life of reasonable comfort and respect.

7. The Committee strongly feel that recruitment to our defence forces will, to a great extent, be influenced by the state of circumstances in which Army personnel, as a class, are placed on discharge or release from the Army. It would be desirable if a soldier were able to maintain the social status and standard of living to which he was accustomed while in service after reverting to civil life to serve as an attraction for recruitment.

8. The Committee has received a number of memoranda on this subject and has examined several witnesses and after considering the oral and documentary evidence carefully, the Committee make the following recommendations in regard to the ways and means for the rehabilitation of *ex*-servicemen including the *ex*-servicemen released or discharged from Indian Army whether before or after September, 1949 :—

I. It has already been proposed while dealing with Land Reforms that clause IX of Section 15-C of the Tenancy Act as originally enacted by Amendment Act No. VII of 2005 (but which was omitted in the 1st Amendment Act of 2007) should be re-enacted. It will exempt from acquisition of protected tenancy "lands which have been let by a person who is in the Military, Naval or Air Force of the State or the Indian Government". This clause will enable a soldier on return from service to secure ejectment of

his tenant by an easy proceeding. As the soldier has to live upon land on return from Army he should be faced with no difficulty in obtaining the possession of his land from the tenants.

II. Lands have been granted to *ex*-servicemen as *Jangi Inams* or gallantry awards and these lands too have been affected by the Big Landed Estates Abolition Act. When such lands were awarded the soldier was given the option of choosing between land and its equivalent in cash on fixed standards in the alternative. In cases where such lands have been affected by the Abolition Act, the Government should consider to award to the soldier concerned cash in proportion to the land of which he has been deprived according to the fixed standards because he had the option of claiming the award in cash instead of in land.

It has been brought to our notice that 93 Officers were eligible for gallantry award. Out of these, 68 cases have been settled—24 were given land and 44 cash. The remaining 25 cases including that of late Jamadar Prakash Singh V. C. have not been yet settled by the Jammu and Kashmir Government. It is recommended that gallantry awards in case of the remaining 25 cases also be expedited.

III. Such of the *ex*-servicemen as do not own any land or own very small units of land should be allotted land where it is available. They should be allowed to retain a minimum of 17 *kanals* of Abi or 33 *kanals* of Khushki in Kashmir Province and 33 *kanals* of Abi or 65 *kanals* of Khushki in Jammu Province and Ladakh District.

It has been represented to the Committee that lands on borders are lying uncultivated and the civilian population is very reluctant to settle on these lands near the border. Lands on the border should be specially reserved for *ex*-servicemen and they should be supplied with arms as well so that they may protect the border as well as cultivate those lands. It will considerably add to the production of food and also make our borders more secure.

IV. (*i*) It has been represented to the Committee that *ex*-servicemen of the State Forces get very meagre pensions when compared to *ex*-servicemen of the Indian Army. The Committee is gratified to note that the Government have already ordered that the *ex*-servicemen should be allowed family pensions and disability pensions according to the State or Indian Rules whichever entitle them to higher rates. Apparently retiring pensions have been left out for the purpose of this order and it is for the State Government to consider the prayer of this class sympathetically.

(ii) Under the State Rules a widow in receipt of family pension ceases to draw pension on her re-marriage. In Indian Rules, however, there is an exception to this rule *vide* Pension Regulation of Army in India Part II Rules 401/1940 which is in the following terms :—

> "This condition shall not apply to a widow who remarries her deceased husband's brother, and continues to live a communal life with and/or contributes to the support of the other living eligible heirs"

There is no such exception in the State Rules. The above exception should be provided for in the State Rules in regard to all *ex*-servicemen for the purpose of Family Pensions.

(*iii*) It has been represented that family pensions have not been paid to families of the deceased soldiers and officers killed after 1947. Family pensions together with children's allowance admissible under rules should be paid without delay in these cases. It is understood that these pension cases will be expedited and allowed at the rates referred to in para IV (*i*) in pursuance of Cabinet Order No. 551-C of 1953, dated 18th May, 1953.

(*iv*) The dearness allowance on pensions which has been stopped in the State with effect from 1st Baisakh, 2008, should be restored with retrospective effect.

(*v*) The pensioner should have the option of drawing pension monthly instead of quarterly as at present.

(*vi*) If there are any pension cases pending the same should be expedited in whichever office they may be pending.

(*vii*) Some of the displaced *ex*-servicemen from Rajouri and Poonch were receiving their pensions before raids but have not been paid after the liberation of their areas by the Indian Army. Their cases may be decided without delay and pensions restored.

V. There was a Government Order No. 751-C dated 7th August, 1945, reserving certain percentage of all State civil appointments for released State Subject Army personnel who served the last World War. This concession appears to have been over looked in practice. A new order in this behalf is called for by the Government to the following effect :—

(*i*) Subject to minimum qualifications and fitness in other respects suitable percentage of posts in all civil departments and in all cadres be reserved for *ex*-servicemen.

(*ii*) Subject to fitness *ex*-servicemen should be absorbed in the Militia, Home Guards and Border Police as far as possible and their claims given preference over others.

(*iii*) Other things being equal, *ex*-servicemen should be given preference for executive posts in Forest, Customs, Excise, Police, Transport and Traffic Departments and State controlled mills and factories.

(*iv*) Ex-servicemen who may have formed a unit or units may be given small contracts for construction of roads and bridges, canals, wells and such other works as can be undertaken by them.

(*v*) Those *ex*-servicemen who were drivers in the Army should, subject to passing the test, be given driving licences and not required to work as cleaners first.

VI. The children of *ex*-servicemen should, as a class, be granted exemption from fees both in schools and colleges. Special facilities and scholarships should be granted for vocational and technical training and for handicrafts. Special scholarships of adequate amounts should be granted to children of deserving *ex*-servicemen both in schools and colleges.

VII. The Industries Department should undertaken measures for encouraging cottage industries among *ex*-servicemen and settling them in such industries as poultry farming, bee-keeping, silk rearing, dairy farms, hand-loom weaving, woollen goods etc.

VIII. Free medical aid should be provided for *ex*-servicemen and their families.

IX. (*i*) Re-organisation of the SS & ISSA Boards on sound and better footing.

(*ii*) Appointment of Welfare Officers.

(*iii*) Creation and setting up of a Central Employment Exchange with branches in all districts to be attached to the District Soldiers' Board. These Employment Exchanges should look to the employment of *ex*-servicemen in civil departments and act as a liaison between the Boards and the Civil Departments.

X. We are informed that Rs. 2,92,907 is still due from Government of India as the share of the Jammu and Kashmir

State Force units who served under the Crown during World War II. Steps should be taken to recover this fund and consolidate this amount together with another amount of Rs. 27,000 lying with the State Government into one fund to be utilised as Benevolent Fund, Jammu and Kashmir State Forces, to be administered by an appropriate Committee.

XI. The above Fund may be utilised for purposes like Orphanages for blind, old and crippled *ex*-servicemen.

XII. Special rehabilitation grants and land and timber for houses should be given to all displaced *ex*-servicemen.

XIII. Special measures should be taken for all-round development of Kandi area, in particular providing water, Kandi being the area from which soldiers come. The development of Kandi means the development of the soldier.

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OTHER MATTERS.

OTHER MATTERS.

Certain matters have been brought to our notice which did not fall within our terms of reference and we have not, therefore, discussed these so far. But as these matters are of general importance we feel it proper to mention them here for the information of the Government.

I. Representatives of insurance companies, other than the New India Assurance Co. Ltd., presented us with a printed memorandum representing that monopoly of fire insurance of Government buildings and property had been given to the New India Assurance Co. They stated that when they represented the matter to the Government they were told that because of the commitment of the predecessor Government with the New India Assurance Co. the present Government could not redress their grievance till the expiry of the term of agreement entered into with that company. The term of agreement having expired in 1952, they represented the matter to the Government again but the Governmnet renewed the monopoly of insurance in favour of the New India Assurance Company till the end of 1953. Their grievance was that by giving monopoly of this business to only one company the Government was not availing of the maximum advantage which it would derive from open competition between various insurance companies and were depriving the families of insurance agents—which according to them numbered about 800—of their livelihood in so far as Government business was concerned.

The first question put to these representatives by the Committee was as to how they would bring this matter within the purview of the Committee's inquiry. Their explanation was that giving of a monopoly to one particular firm was a sort of control and, therefore, it fell within our terms of reference. It was explained to them that since the Government had not controlled business other than the Government fire insurance it could not be classified as a control measure introduced by the Government. The Government, as an owner of certain property, had every right to select its own company and if they have done that in the matter of fire insurance of their buildings and property this would not come within the scope of controls. It was further explained to them that may be that the Government having considered their grievance have renewed the contract with the New India Assurance Co. only for a year which was going to expire by the end of 1953.

APPENDICES.

II. Certain complaints against individuals pertaining to the Revenue Department in connection with the implementation of land reforms were made before the Committee and as the Committee was not dealing with individual cases these complaints, if made in writing, were passed on to the proper administrative authority

One complaint needs being mentioned specially in this connection, namely that of Ghulam Mohi-ud-Din Bhoru of Bandipore who made some very serious allegations against some firm known as Lal Firm of Bandipore. We had heard this gentleman in detail at Bandipore in one of the public gatherings and recorded his evidence. Later on he came to Srinagar and wanted to be heard again by the Committee. On being permitted to depose whatever he had to, he read out a long petition making serious allegations against the above noted firm. As he wanted this petition to be kept on record by the Committee and as we were not examining cases against individuals or individual firms, this petition was passed on to the Government through the Chief Secretary.

III. The Chamber of Commerce, Srinagar, in their main statement given by them on the subject before inquiry referred to the Emporia run by the Government alleging that this kind of State trading was also a sort of control and should, therefore, be examined by the Committee. After perusing the supplementary memorandum submitted by the Chamber of Commerce we were of opinion that the contents of the memorandum did not fail within the purview of our inquiry and so we did not discuss this subject in our main report. But it appears that there is a general resentment among the traders in regard to the Government trading through Emporia. Knowing that Emporia are not functioning to the exclusion of the private traders we do not propose to discuss this subject at all beyond bringing this matter to the notice of the Government.

JANKI NATH WAZIR

ALI SHAH

HARNAM SINGH PATHANIA

GHULAM AHAMAD

APPENDIX I.

OFFICE OF THE INQUIRY COMMITTEE, JAMMU.

NOTICE.

The Inquiry Committee was set up by the Government under Cabinet Order No. 128-C dated 2nd February, 1953 to report on :—

(1) working of the Land Reforms in the Kandi area of the State ;

(2) working of the system of price and other controls prevalent in the State ;

(3) progress of rehabilitation of the displaced persons in the Jammu and Kashmir State ; and

(4) ways and means to be adopted for the rehabilitation of *ex*-servicemen of the State.

The public in general and organisations and leading persons dealing with or having special knowledge of the matters covered by the terms of reference set out above in particular are requested to send written memoranda to the Committee on these matters. To facilitate this work the questionnaire approved by the Committee is given at the close of this notice. It may, however, be pointed out that the list of questions is merely illustrative of these matters and not exhaustive and that while every endeavour should be made to furnish the information specially required in the questionnaire such other information as would assist the Committee in the discharge of its responsibilities would be greatly appreciated.

The written memoranda to be submitted to the Committee will be followed by oral examination in elucidation and amplification thereof before the Committee as far as possible. The persons submitting their memoranda will in due course be requested to appear before the Committee for such examination. If there are any persons who would assist the Committee by their oral examination without submitting memoranda they will please intimate their names to the Secretary of the Committee so that invitations for their appearance before the Committee may be issued.

The time available to the Committee for the submission of its report being limited it would be greatly appreciated if written memoranda are sent within one week from the date of the issue of this notice.

Dated Jammu,
the 3rd Phagan, 2009
14th February, 1953.

(Sd.) R. K. KAUL,

Secretary Inquiry Committee.

QUESTIONNAIRE.

I.— Working of Land Reforms in Kandi Area.

1. What is the approximate total area of land under cultivation in Kandi area in each Tehsil of the State ?

2. How many proprietors had more than 182 *kanals* in Kandi area in each Tehsil, before the introduction of Land Reforms ?

3. What is the total area of land in Kandi area which has been transferred from the proprietors to the tillers in each Tehsil under the Big Landed Estates Abolition Act ?

4. Is the unit of 182 *kanals* and 160 *kanals* an economic unit for Kandi areas for the landlord and tiller respectively ?

5. What is the relative productivity of land in Kandi area in comparison to the neighbouring non-Kandi lands ?

6. If you think that the above unit is not an economic unit what will you propose to be such a unit ?

7. What are your reasons for your thinking that the unit of 182 and 160 *kanals* is not an economic unit in Kandi areas and what are your reasons for the unit proposed by you ?

8. In what respects do you consider that the Land Reforms stand in need of improvement so far as the Kandi *illaqas* of the State are concerned ?

9. Do you think that the Land Reforms have been fully implemented in the Kandi *illaqas* and have the advantages intended for the benefit of the tiller in fact accrued to him ?

10. If the reply to the preceding question be in the negative, point out the defects in the implementation of the reforms and suggest the remedial measures.

11. Do you consider the present rates of rent payable to landlords as now fixed by law equitable or otherwise in regard to lands in Kandi areas ? Give reasons in support of your answer ?

12. Do you find any procedural or other defect in the law relating to the ejectment of tenants of different categories in Kandi areas ? If so, what are these ? What would you suggest to remedy them ?

13. Is the limit to Khud-Kasht land as fixed at present equitable and economic so far as land in Kandi areas is concerned ? If not, what suggestions do you make to make it more equitable ?

14. Has the interpretation of the term Khud-Kasht caused any difficulties in actual practice to landholders in the Kandi areas ? If so, what remedies do you propose ?

II.—Working of Price and other Controls.

1. Controls were enforced in the State because the essential commodities were in short supply and it was desirable to have an equitable distribution of these at reasonable prices in the interest of the community. These were later on extended to cover (*a*) transport, including petrol, (*b*) house and shop rents, (*c*) cement, (*d*) iron and steel, (*e*) liquor etc. Do you think that the position in regard to the continuance of controls has changed ? If so, how and to what extent ? What remedies do you suggest now ?

2. Are any commodities which have been decontrolled in India still under control in the State ? If so, are there any reasons for the continuance of those controls in the State ?

3. Name the commodities which are still under control in the State. Are you in favour of the continuance or otherwise of these controls ?

4. Has there been any difficulty or defect in the method and working of the controls ? If so, what are these and how do you propose to remedy them ?

5. Do you think that the present prices of controlled commodities are high ? If so, what are the factors responsible for it and what suggestions do you make to bring down the price level ?

6. Can you give details of various overhead charges that are added on to the purchase price of cloth, sugar and salt till these reach the consumer in the cities of Jammu and Srinagar and the Muffasils of the two Provinces and Ladakh ? How far and in what ways do you think that these charges can be reduced ?

7. Do you think that the supply of goods to Co-operative Stores has affected the prices of those commodities to the disadvantage of the consumer ? If so, in what way ?

8. Do you justify the continuance of control over foodgrains in the State at present ? If not, what are your reasons and what would you porpose in the alternative ?

9. If you consider that the continuance of controls is no longer necessary, what practical suggestions would you make without impinging on the consumer with respect to each controlled item ?

10. What has been the effect of transport control including petrol rationing on private enterprise in regard to transport service and trade in general with consequent repercussions on the consumer ?

11. Do you think that in view of the changed conditions in the country it is desirable to deration petrol ?

12. Are you in favour or not of continuance of present controls over house and shop rents ? Give reasons for your reply ?

III.—Rehabilitation of Displaced Persons.

1. What was the number of displaced families in Jammu, Kashmir, Poonch and Ladakh to be rehabilitated ? How many of them have so far been rehabilitated, and what is the balance to be rehabilitated in these areas respectively ?

2. How many displaced persons have been rehabilitated in different parts of the State ? Give figures with particulars regarding displaced personal original home, where rehabilitated and how ?

3. How many displaced persons have been rehabilitated, and how many with land or money or both ?

4. Have any loans been granted, commercial or otherwise ? What conditions have been attached to such loans ? Has the grant of loans been adequate enough to fix up the grantees in some occupation ? If so, to what extent ?

5. Have the concessions, cash loans, free timber etc. etc., granted been properly utilized by the grantees for *bona fide* purposes and how far have these helped in their rehabilitation and settlement in an occupation ? Give facts and figures and state what steps the Government authorities took in ensuring that such concessions were duly utilized for the purpose for which they were granted ?

6. Have the lands allotted to the displaced persons for rehabilitation been granted to them subject to any condition ? If so, what ?

7. Have any displaced persons colonies or settlements been established ? If so, where and how? Give particulars in the matter of families and the total number of persons settled, land or other concessions granted and subsidies or loans advanced ?

8. Have displaced persons been given any special concession in the matter of education in the State ? If so, particulars may be given.

9. What expenditure has been incurred by the Government (State or India) on the rehabilitation of displaced persons in the years Samvat 2005, 2006, 2007, 2008 and first six months of 2009 ? What scheme is in contemplation under the Five-Year-Plan of the State ?

10. What would you consider to be the grievances of the displaced persons in general which require immediate attention ? Are there any special grievances of displaced persons from any particular area of the State ? What practical suggestions would you make to remove all the grievances ?

IV.—Ways and Means for Rehabilitation of Ex-servicemen.

1. What have been the causes of unsettlement of *ex*-servicemen ? Have these been economic, social or political ?

2. Which areas of the State are inhabited by the *ex*-servicemen ? Give figures district-wise of *ex*-servicemen retired before 1948 and thereafter ?

3. For *ex*-servicemen retired before the end of December, 1947, if their unsettlement has been due to economic pressure or otherwise what remedies do you suggest for their proper settlement ?

4. What are the causes of unsettlement of the *ex*-servicemen of the Army retired or demobed in 1948 and thereafter and what remedies do you suggest for their rehabilitation ?

5. What privileges, conveniences and amenities did these *ex*-servicemen enjoy after their discharge from active service or retirement from the Army in the State or India ? Have these privileges, conveniences and amenities been affected in any way ? If so, give particulars and suggest remedies.

6. What measures would you suggest for providing occupations, service or otherwise for these *ex*-servicemen in their own district, in their own Province or the State as a whole and what possible schemes would be practicable ?

7. What avenues can be made available for *ex*-servicemen under the Five-Year-Planning which would permanently or to a large extent solve their unemployment problem ?

APPENDIX II.

JAMMU PROVINCE.

Names of the Witnesses whose statements were recorded.

RANBIRSINGHPURA.

1. Retired Captain Sardar Sunder Singh*.
2. Bhagat Chajju Ram*.
3. Mr. Shanker Dass*.
4. Mr. Kashir Ram, President, National Conference, Miran Sahib.
5. Lala Satyapal Gupta*.
6. Captain Maghar Singh*.
7. Mahasha Nahar Singh.
8. Th. Ganesh Singh*.
9. Sardar Ravil Singh*.
10. Sardar Rughbir Singh.
11. Sardar Gian Singh.

JAMMU.

1. Sardar Nikka Singh, Secretary, Transport Owners' Association.
2 Bhagat Roopchand, Vakil.
3. Mehta Kirpa Ram.*
4. Mr. Krishen Dev Sethi.
5. Mr. Prem Nath Chopra.
6. Shrimati Ishardevi, M.L.A.*
7. Mr. Ram Lal Gandotra Secretary Transport Operator's Union.*
8. Raizada Arjan Dass.
9. Sardar Kulbir Singh*.
10. Th. Ajit Singh.
11. Lt.-Col. Khajur Singh.*
12. R. B. Anant Ram.
13. Brig. Udeychand.*
14. Rao Sahib Bindraban.*
15. Mr. Lok Nath Sharma.
16. Pt. Dina Nath, Advocate.
17. Raizada Amarchand, Advocate.*
18. Anant Ram Esqr., Retired Additional District Magistrate.
19. Kotwal Tej Ram.

*Submitted Memorandum.

REASI.

1. Mr. Bhagat Ram, M.L.A.
2. Mr. Ayub Khan, M.C.A.*
3. Lala Tej Ram, Vakil.
4. Manka Maheshwar Nath*.
5. Amroo, Numberdar.
6. Mr. Bansi Lal Kohistani*.
7. Wazir Krishen Singh.
8. Mr. Nanak Chand.
9. Mr. Gulam Rasool.
10. Mr. Kripa Ram, Zaildar.
11. Mr. Mansukh Rai.
12. Mr. Sukh Raj.
13. Mr. Guranditta.

JHORIAN.

1. Pt. Gooni Ram.
2. Mr. Bolu Singh.
3. Mr. Shiv Ram.
4. Sardar Ranjha Singh.
5. Sardar Harmandhar Singh.
6. Bhagat Shiv Ram.

AKHNOOR.

1. Mr. Des Raj.*
2. Mr. Ishar Dass.*
3. Mr. Anant Ram Bhagat.*
4. Mr. Bhag Singh.*
5. Pt. Nand Lal.
6. Lala Bheka Ram.
7. Mr. Shiv Ram.
8. Sub. Amar Singh.*

UDHAMPUR.

1. Vice-President, Soldiers' Board.*
2. Mr. Vishwa Bhandu Gupta.*
3. Mr. Sansar Chand Gupta.*
4. Mr. Mast Ram of Mazdoor Sabha.*

*Submitted Memorandum.

UDHAMPUR.—(*concluded*).

5. Mr. Chandu Lal.
6. Sardar Hukam Singh.*
7. Mr. Ram Nath Kohili.
8. Col. Abdul Rahman Khan.
9. Mr. Ganga Nath.

RAMNAGAR.

1. Pt. Kameshwar Nath, Pleader.*
2. Sardar Shamsher Singh.*
3. President, Beopar Mandal.
4. Th. Krishen Dev.*
5. Mr. Kashmiri Lal.*
6. Bawa Keshwa Singh.

BHADARWAH.

1. Bhagat Mani Karan.
2. Bhagat Ram Saran.
3. Mr. Jiwan Lal.
4. Mr. Shiv Lal Kotwal.*
5. Mr. Devi Dayal.
6. Mr. Harbans Lal, Vakil.*

DODA.

1. Th. Ram Singh.*
2. Gulam Mohd. Sheikh.*
3. Bhagat Ram Aryan.*
4. Mr. Gulam Rasool.
5. Sardar Narayan Singh.
6. Mr. Mangat Ram.
7. Mr. Gulam Mohd., M. C. A.*
8. Sardar Tara Singh, Retired Subedar.
9. Mr. Jagat Ram, Petition Writer.*
10. Jai Ram, *ex*-Soldier.
11. Mr. Krishen Lal Basin.
12. Kh. Gulam Qadir.
13. Mr. Gulam Ahmad, M. L. A.
14. Sardar Sadhu Singh.
15. Mr. Dani Ram, Chenani.

*Submitted Memorandum.

BATOTE.

1. Dr. Mohan Lal, Medical Practitioner.
2. Mr. Amar Nath.
3. Mr. Bhagat Singh.
4. Mr. Dina Nath.

NOWSHERA.

1. Bakshi Kaka Ram.*
2. Mr. Nanak Chand.*
3. Sub. Najib Singh.*
4. President, Yole Refugee Camp.*
5. Lala Chuni Lal.
6. Mr. Mani Ram.
7. Sardar Prem Singh.
8. Sardar Punjab Singh.
9. Mr. Soba Ram.

RAJOURI.

1. Mr. Abdul Aziz Shal.*
2. Mr. Jamal-ud-Din Dar.*
3. Mr. Rup Lal, Advocate.*
4. Lala Bala Ram, Vakil.
5. Lala Ram Nath, Advocate.
6. Lala Jagdesh Rai.
7. Mr. Ram Lal.*
8. Jam. Jagat Ram.*

HIRANAGAR.

1. Mr. Bem Sen*.
2. Mr. Tej Ram.
3. Mr. Des Raj and others*.
4. Mr. Girdhari Lal.*
5. Mr. Gian Chand.*
6. Master Parmanand.
7. Mr. Kulbirsingh.
8. Lala Mulk Ram.

   Dr. Uttam Chand.

*Submitted Memorandum

KATHUA.

1. Mr. Mangut Ram Sharma.*
2. Mr. Bhagat Ram.
3. Th. Ajib Singh.
4. Mr. Balwant Rai.*
5. Mr. Ganpat Ram.

BASOHLI.

1. Th. Ram Saran.*
2. Mr. Ganpat Rai.
3. Mr. Amarchand.*
4. Mr. Lachmi Chand.
5. Mr. Noor Ahmad.
6. Jai Shri Ram.
7. Mr. Vasudev.
8. M/S Amar Nath Chandu Ram.

SAMBA.

1. Mr. Ishardass Panchi.
2. Mr. Des Raj.*
3. Mr. Kaka Ram.
4. Mr. Kalai Khan.
5. Mr. Atama Singh.
6. Mr. Tej Ram.*
7. Sardar Dharam Singh.
8. Sardar Ajit Singh.*
9. Pt. Gauri Datt.
10. Mr. Fateh Singh.
11. Sardar Dharv Singh.
12. Sub. Nihar Singh.
13. Lala Karam Chand Saraf.

POONCH.

1. Master Beli Ram.
2. Sub. Nanak Chand.*
3. Shri Badri Nath.
4. Mehta Raja Ram Shah.
5. Peer Jamaat Ali.*
6. Sh. Sain Dass.

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*Submitted Memorandum.

Kashmir Provinoe.

Names of the Witnesses whose statements were recorded.

Srinagar.

1. Mr. Gulam Rasool Kaus.
2. Peer Hassam-ud-Din.*
3. Pt. Ram Narayan.
4. Kh. Ahmad Ullah Ganai.
5. Mr. Madan Lal.
6. Mr. Rugh Nath Kaul.
7. Kh. Gulam Ahmad, President, New Kashmir Cloth Dealers' Association.
8. Mr. K. A. Mantoo, Secretary, New Kashmir Cloth Dealers' Association.*
9. Wazir Feroz Chand, Retired Revenue Commissioner.
10. Sardar Mansingh.
11. Mohd. Sultan Khan.
12. Mohd. Yussuf Bazaz.
13. Pt. Anand Ram Shangloo.
14. Kh. Abdul Aziz Naqash.
15. Haji Gulam Ahmad Baba.
16. Meer Asad Ullah.
17. Mr. Gulam Rasool.
18. Kh. Gulam Hassan Khan.*
19. Mr. Gulam Ahmad.
20. Master Mohd. Maqbool.
21. Kh. G. M. Mackay.
22. Sardar Teja Singh.
23. Mr. Abdul Qadir Meer.
24. Pt. Saroop Nath.*
25. Sardar Sarmokh Singh.
26. Mr. Mohd. Ismail.
27. Mr. Gulam Ahmad Baba, Secretary, Millowners' Association.*
28. Mistri Gulam Ahmad.
29. Pt. Janki Nath.
30. Mr. Bihari Lal Batra.*
31. Mr. Gulam Mohi-ud-Din of Rent Payers' Association.*
32. Mr. Gulam Mohd., President, Property Holders' Association.*
33. Kh. Gulam Ahmad Bach.

*Submitted Memorandum.

SRINAGAR.— (*concluded*).

34. Secretary, Beopar Mandal, Srinagar.
35. Secretary, Piece Goods Traders' Association.
36. Kh. Abdul Aziz Mantoo.*
37. Mr. Gulam Ahmad, President Kashmir Chamber of Commerce.*
38. Pt. Sarvanand Raina.
39. Secretary, City Retail Dealers' Association.
40. Mr. Mohd. Sultan Khan of Control Cloth Dealers' Association.*
41. Pt. B. N. Nehru.*
42. Mr. H. N. Dar.*
43. Mr. Bala Kak Dhar.*
44. Mr. Mohamad Maqbool Shahdad.
45. Mr. D. N. Fotedar, Advocate.*
46. L. Satya Pal, Advocate.*
47. Pt. J. N. Kaul.
48. Mr. J. N. Safaya.*
49. Pt. Janki Nath Bhan on behalf of Kashmiri Pandits Socio Religious Conference.*
50. Syed Ali Shah, Retired Tehsildar.
51. Mr. Gulam Mohd.
52. Pt. J. L. Raina.*
53. Syed Mohamad Amin Andrabi
54. Khwaja Noor Shah.

URI.

1. Raja Abdul Aziz Khan.
2. Mr. Atta Mohd. Khan.
3. Mr. Abdul Gani.
4. Mr. Habib Bhat.
5. Mr. Ali Mohd.
6. Mr. Abdul Rahman.
7. Sardar Faqir Singh.

BARAMULLA.

1. Mr. Munnawar Lone.
2. Mr. Dilawar Beg.
3. Sardar Kartar Singh.
4. Gulam Nabi Kanru, Shopkeeper.
5. Mr. Madan Lal, Shopkeeper.
6. Mr. Gulam Nabi.
7. Mr. Vahab Dar son of Khalil Dar.

*Submitted Memorandum.

BARAMULLA.—(*concluded*).

8. Mr. Sona Mir son of Fateh Mir.
9. Mohd. Dar son of Lassi Dar.
10. Sardar Pratap Singh.
11. Kh. Ahmad Mir.
12. Sardar Tara Singh.
13. Sardar Ranjit Singh.
14. Mr. Abdul Rahim.
15. Mr. Gulam Mohi-ud-Din.
16. Sardar Raghu Singh.
17. Mr. Abdul Aziz Mir.

HANDWARA.

1. Pt. Samsar Chand.
2. Mr. Gulam Mohi-ud-Din.
3. Mr. Jabbar Dar.
4. Mr. Razak Bhat.
5. Sardar Sujan Singh.*
6. Kh. Khazir Bhat.
7. Mr. Sarfaraz Malik.
8. Mr. Abdul Gani Mir.
9. Mr. Habib Malik.
10. Kh. Khaliq Malik.
11. Mr. Mohd. Yussuf.
12. Mr. Jabbar Shah.
13. Mr. Rahman Teetru.
14. Kh. Amir Yato.
15. Mr. Samad Lone.

SOPORE.

1. Sardar Niranjan Singh.
2. Kh. Noor Mohd.
3. Mr. Lassi Wani.
4. Mr. Mukhtar Baba.
5. Haji Khalil Joo.
6. Mr. Sukhdev.
7. Kh. Gani Joo Bala.
8. Kh. Abdul Kabir of Handola Club.

*Submitted Memorandum.

SOPORE.—(*concluded*).

9. Sardar Bajsingh.
10. Raja Sher Ali Khan.
11. Mr. Gulam Qadir Shah.
12. Kh. Najaf Din.

GANDERBAL.

1. Soofi Mohi-ud-Din.
2. Kh. Salam Sheikh.
3. Mr. Mohd. Sultan.
4. Mr. Vali Meer.

BANDIPORE.

1. Mr. Gulam Mohd. Malik.
2. Pt. Gulab Ram.
3. Kh. Ahmad Khan.
4. Kh. Gulam Mohi-ud-Din, Bhoni.
5. Mr. Mukta Ahmad.
6. Kh. Gulam Nabi Mir.
7. Mr. Yussuf Jan.

ANANTNAG.

1. Mr. Sula Khande.
2. Mr. Sona Lone.
3. Mr. Gulam Mohd. Cochak.
4. Mukta Sahib.
5. Mr. Gula Mir.
6. Lala Chuni Lal.
7. Mr. Gulam Hassan Qadri.
8. Kh. Abdul Gani Want.
9. Mr. Habib Ullah Khan.
10. Mr. Gulam Nabi Bhat.
11. Pt. Jia Lal Raina.
12. Mr. Ramzan Naik.
13. Kh. Salam Sheikh.
14. Mr. Abdul Ahad Dar.
15. Mr. Abdul Rahman Dar.
16. Pt. Tara Chand.

ANANTNAG —(*concluded*).

17. Mr. Mohd. Shaban.
18. Kh. Mohd. Bhat.
19. Mr. Abdul Gani Wani.
20. Mr. Khazir Mohd.

SHOPIAN.

1. Pt. Shambu Nath.
2. Pt. Srikanth.
3. Pt. Krishen Gopal.
4. Kh. Amir Joo Tak.
5. Mr. Abdul Aziz.
6. Mr. Lassi Laway.
7. Master Ramchand.
8. Kh. Gani Joo Langoo.
9. Mr. Gulam Qadir Paray.
10. Mr. Brij Lal.
11. Sardar Govind Singh.
12. Mr. Gulam Hassan Malik.

PULWAMA.

1. Pt. Radha Krishen Ganjoo.
2. Kh. Habib Ullah Malik.
3. Mr. Abdul Rahim.
4. Mr. Mohd. Anwar.
5. Kh. Wali Malik.

KULGAM.

1. Mr. Gulam Qadir Lone.
2. Mr. Samad Malik.
3. Pt. Kesho Nath.
4. Kh. Gulam Rasool Mir.
5. Mr. Vali Dar.*
6. Mr. Gulam Ahmad Lone.
7. Raja Mohd.
8. Mr. Ali Mohd.
9. Pt. Amar Nath.
10. Pt. Omkar Nath.
11. Mr. Gulam Ahmad Soofi.
12. Mr. Gulam Hassan Reshi.

*Submitted Memorandum.

QAZIGUND.

1. Mr. Gulam Mohi-ud-Din.*
2. Pt. Shiv Jee Kaul.
3. Mr. Gulam Mohi-ud-Din War.*
4. Mr. Gulam Mohd.
5. Sardar Rughnath Singh.*
6. Mr. Abdul Ahad Ganai.
7. Pt. Rugh Nath.
8. Mr. Abdul Aziz.
9. Mr. Abdul Rahman Dar.
10. Pt. Soom Nath.*

BADGAM.

1. Pt. Damodhar Bhat, Vakil,
2. Mr. Mohd. Ayub Khan.
3. Mr. Abdul Rahman Mir.
4. Kh. Mohd. Shaban.
5. Kh. Khaliq Peer.
6. Mr. Sidiq Lone.
7. Mr. Abdul Rahman.
8. Mr. Sultan Bhat.
9. Pt. Kashi Nath Kaul, Petition Writer.*
10. Sardar Baghwant Singh.*
11. Kh. Ramzan Dar.
12. Mr. Gaffar Ayyangar.
13. Mr. Gulam Mohi-ud-Din Farooqi.
14. Pt. Janki Nath.
15. Mr. Gulam Ahmad Ganai.

KANGAN.

1. Kh. Kamal Mir.
2. Haji Gulam Mohd.*
3. Mr. Gulam Mohd.
4. Mr. Shamas-ud-Din Kapra.
5. Kh. Haidar Shah.
6. Mr.Abdul Aziz Magray.
7. Mr. Lassa Sheikh.
8. Mr. Sadiq son of Subhana.

* Submitted Memorandum.

HARIGANWAN.

1. Mr. Gulam Mohd. Magrai.
2. Mr. Lala Magrai.
3. Kh. Habib Ganai.
4. Mr. Abdul Gani.
5. Mian Bashir Ahmad.*
6. Mr. Gulam Ahmad Mir.
7. Mohd. Sultan Rather.

GUND.

1. Pt. Soom Nath.
2. Mr. Mohd. Ganai.

VERINAG.

1. Mr. Gulam Mohi-ud-Din and others.

DURU-SHAHABAD.

1. Kh. Mohd. Yussuf Qureshi.
2. Kh. Gulam Ahmad Wani.
3. Mr. Gulam Rasool Bhat.
4. Kh. Khaliq Joo.

GULMARG—TANGMARG.

1. Kh. Abdullah Mir.
2. Mr. Gulam Ahmad.
3. Mr. Abdul Ahad Ganai.
4. Mr. Fateh Mir.
5. Mr. Lassi Dar.
6. Mr. Qadir Beg.

LOLAB (TREHGAM, PUNZGAM, CHOKIBAL, SOGAM).

1. Mr. Abdul Samd Ganai.
2. Mr. Gulam Nabi.
3. Mr. Ramzan Lone.
4. Kh. Khaliq Naki.
5. Mr. Gaffar Bhat.
6. Kh. Shamas-ud-Din.
7. Mr. Lassi Ganai.
8. Mr. Khaliq Lone.
9. Mr. Gaffar Mir.
10. Mir Gulam Mohi-ud-Din.

* Submitted Memorandum.

LOLAB (TREHGAM, PUNZGAM, CHOKIBAL).—(*concluded*).

11. Mr. Lassi Wani.*
12. Mr. Mohd. Lone.
13. Mr. Abdul Sattar Soofi.
14. Mr. Abdul Rahman Bhat.
15. Kh. Khaliq Mir.
16. Mr. Abli Wani.
17. Mr. Mukhta Sheikh.
18. Mr. Jamal Lone.
19. Mr. Gaffar Lone.
20. Mr. Sona Lone.
21. Kh. Ahmad Mir.
22. Mr. Rahman Dar.
23. Mr. Gulam Mohd. Dar.
24. Mirza Meer.
25. Kh. Gulam Mohd. Mir.
26. Mr. Abdul Aziz Lone.
27. Kh. Abdullah Lone.
28. Mr. Abdul Jabbar.
29. Mr. Abdul Kabir.
30. Mr. Abdul Ahad Bhat.

TRAL.

1. Kh. Asad Ullah Mir.
2. Sardar Amar Singh.
3. Sardar Gurbaksh Singh.
4. Mr. Gulam Nabi Mir.
5. Mirza Abdul Aziz.
6. Mr. Khaliq Bhat.
7. Mr. Gulam Mohd. Mir.
8. Mr. Ali Mohd. Naik.
9. Sardar Baldev Singh.
10. Mr. Lassi Mir.
11. Mr. Ramzan Mir.
12. Kh. Mohd. Shah.
13. Kh. Rasool Bhat.
14. Mr. Satar Naik.
15. Sardar Kartar Singh.

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*Submitted Memorundum.

Ladakh District.

Names of the Witnesses whose statements were recorded.

Ladakh.

1. Mr. Satobdan, Secretary, National Conference, Ladakh.*
2. Mr. Skilzang Rinjen.
3. Mr. Gulam Mohi-ud-Din, Petition Writer.
4. None Munshi Chattan Ponchuk.
5. Kh. Tuniat Shah.
6. Kalon Chiwang Ragzon.*
7. Mr. Tashi Tandug.*

Kargil Tehsil.

1. Aga Syed Ibrahim Shah, M. L. A.*
2. Mr. Gulam Hassan.*
3. Kachoo Mohd. Akbar Khan.

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*Submitted Memorandum.

Names of the Government Officers whose statements were recorded at Jammu

1. Pt. Ramchander Raina, Land Reforms Officer.*
2. Col. B. S. Samyal, Director General, Food and Supplies (On F Control).*
3. L. Durga Dass, Deputy Registrar, Co-operatives, Jammu.*
4. Kanwar Nirandar Singh, Deputy Commissioner, Jammu.
5. Mr. T. C. Wazir, Director Industries.*
6. Sardar Mahindar Singh, Inspctor of Schools, Jammu.*
7. Begam Zaffar Ali, Chief Inspectress.
8. Qazi Nizam-ud-Din, Additional District Magistrate, Jammu.*
9. Mr. Ram Lal Gupta, Finance Secretary.
10. Pt. Balbhadar Taplu, Assistant Accounts Officer (Commercial).
11. Col. Baldev Singh Samyal, Director General, Food and Supplies (On Food Control).
12. Pt Srikanth Raina Esqr., Transport Controller.*
13. Mr. Meer Qasim, Chief Parliamentary Secretary.
14. Mr. Gulam Hassan Khan, Chief Engineer, Planning.
15. Mr. Panna Lal, Deputy Director of Education.
16. Mr. G. M. Bhat, Director of Agriculture.*
17. Dr. J. N. Bhan, Professor G. M. College, Jammu.

Names of the Government Officers whose statements were recorded at Srinagar.

1. Mr. Abdul Rashid, Deputy Director, Industries.
2. Mr. J. L. Saraf, Controller of Supplies.*
3. Mr. Durga Dass, Registrar, Co-operatives.*
4. Kh. Mohd. Amin, Direcror Food Control, Srinagar.*
5. Kh. Abdul Kadir, Additional District Magistrate, Srinagar.*
6. Mr. P. C. Rao, General Manager, J. & K. Bank, Srinagar.
7. Kh. Gulam Nabi, Deputy Commissioner, Srinagar.
8. Mirza Kamal-ud-Din, President, Srinagar Municipality.*
9. Kh. Gulam Ahmad Ashai, Registrar, J. & K. University.
10. Col. Baldev Singh Samyal, Provincial Rehabilitation Officer, Jammu.
11. Pt. Kashyup Bandhu Ji, Provincial Rehabilitation Officer, Srinagar.
12. Pt. R. N. Koul, Deputy Registrar, Co-opratives.
13. Mr. Dilbag Rai, Chartered Accountant.

Names of the Government Officers who sent their Memoranda.

1. Mr. Habib-Ullah Kamili, Development Secretary.
2. Mr. A. Fazili, Revenue Secretary.

* Submitted Memorandum.

Jammu Province.

Names of the persons who submitted their Memoranda.

Ranbirsinghpura.

1. Mr. Bishendass, Vakil.
2. Mr. Anant Ram Gupta.
3. Mr. Gula Shagoo etc.
4. Mr. Gauri Shanker, etc.
5. Mr. Ram Sahai Gupta.
6. Mahasahi Dharam Pal.
7. Mr. Ram Chand of Harijan Mandal.
8. Sardar Basakha Singh.

Reasi.

1. Mr. Shanker Dass and others.
2. M. L. A. Reasi.
3. M/S. Gulab Din, Din Mohd.

Akhnoor.

1. Mr. Lahru Ram and others.
2. Jam. Amar Singh.
3. M/S Fateh Chand, Kaku Ram.
4. Sardar Bhag Singh.
5. Sardar Ishar Singh.
6. Mr. Singharo.
7. Mr. Nanak Raj Bali.
8. Mr. Baghwandass.
9. Sardar Munshi Singh.
10. Mr. Devi Ram.
11. Mr. Anant Ram etc.
12. Sardar Thakur Singh.
13. Inhabitants of village Chab.
14. Mr. Basant Ram.

Udhampur.

1. Mr. Jagat Ram Rajput.
2. Mr. Kansu and others.

UDHAMPUR.— (*concluded*).

3. Maliq Mohd. Abdullah.
4. Sardar Sher Singh.
5. Mr. Anant Ram Sharma.
6. Sant Ram and others.
7. Mr. Birbal.
8. Sardar Harbans Singh.
9. Comrade Dharam Pal.
10. Mahasha Mangat Ram.
11. Th. Dharam Singh.
12. Bhagat Gopi Chand.
13. Th. Shiv Dass.
14. Gridhari Lal, Zaildar.
15. Mohd. Ashraf Khan.
16. Mr. Rup Chand.
17. Jt. Secretary, Tehsil National Conference, Sundemini
18. Sardar Allah Ditta Khan.
19. Pt. Triloki Nath Baisan.
20. Mr. Om Prakash, Vakil.
21. Mr. Rakhi Ram.
22. Mr. Kamdar Shah.
23. Mr. Daya Ram.
24. Mr. D. N. Gupta.
25. Mr. Kripa Ram, Pensioner.
26. Raja Sahib of Chenani.
27. Mahasha Dina Nath.
28. Mr. Yogin Lal Nath.
29. Mr. Ishardass Dogra.
30. Mr. Hari Ram Sharma.

RAMNAGAR.

1. Mr. Kundan Lal Dina Nath.
2. Mr. Nizam Din, Milkman.
3. Amar Nath, Retired Police man.
4. M/S. Amar Nath Chander Pran.

RAMNAGAR.—(*concluded*).

5. Sardar Uttam Singh, Retired Naib-Tehsildar.
6. Th. Prabhat Singh.
7. Th. Kam Singh.
8. Mr. Kripa Ram.

BADHARWAH.

1. Mohd. Assad Ullah etc.
2. Bhagat Thakur Dass.
3. Mr. Habib Ullah, Vice-President, Anjuman Islamia.
4. Mr. Shamas-ud-Din.
5. Mr. Manga Qureshi.
6. Mr. Ibrahim Gojar.
7. Mr. Abdullah and others.
8. Soba Gojar.
9. Sarpanch, Panchayat, Ramkote.
10. Bhagat Ram Aryan.

DODA.

1. Ch. Shiv Ram.
2. Lala Charan Dass.
3. Mr. Beli Ram, Numberdar.
4. Halqa President, National Conference.
5. Pt. Dina Nath.

NOWSHERA.

1. President Kisan Sabha.
2. Lala Chuni Lal.
3. Bhagat Ram Sharma.
4. Shopkeepers.
5. Refugees.
6. Ex-Servicemen.

JHORIAN.

1. Mr. Dharam Chand Rep. Harijan.
2. Shika Ram and others.
3. Anant Ram and others.

RAJOURI.

1. Mr. Gulab Din.
2. Sardar Harbans Singh.
3. Sardar Singh.
4. Mr. Syed Mohd.
5. Pt. Ram Chand, President, Refugee Committee.
6. M/S. Abdul Aziz, Abdul Hamid.
7. Mr. Salam Mohd.
8. Mr. Abdul Rashid.
9. President, National Conference, Garni.
10. Mr. Mani Ram Shah.
11. Mr. Tota Ram and Jagan Nath.
12. Mr. Kaka Khan and others.

POONCH.

1. Mehta Gopi Chand.
2. Mr. Allah Ditta Khan.
3. Mr. Abdullah Sheikh.
4. Refugee Committee, Mendhar.
5. Shrimati Chattar Devi.
6. Sardar Pritam Singh.
7. Zamindars of Illaqa Mandi.
8. Residents of Tehsil Haveli.
9. Hav. Karam Hussain.
10. Soma Ram.
11. Master Gulam Mohd., M.C.A.

HIRANAGAR.

1. M/S. Jowhar Singh, Mansingh.
2. Mr. Gian Singh.
3. Mr. Laik Ram, Patwari.
4. Mr. Mukhtar Singh.
5. Mr. Sita Ram.
6. Sardar Harbajan Singh.
7. Mr. Gauri.
8. Mr. Munshi Ram and others,
9. Mr. Devidass,

KATHUA.

1. Balbir Singh Gati.
2. Rakha son of Bhagtu.
3. Mr. Ram Chand.
4. Mr. Jawahir Singh, Numberdar.
5. Mr. Ramditta Chaudri.
6. Mr. Recela Ram.
7. Sarpanch, Panchayat Hatli.
8. Achardass.

BASOHLI.

1. Mr. Gopal Dass.
2. Mr. Ram Lal.
3. Mr. Tara Chand and others.
4. Mr. Lachmi Chand Shastri.
5. Mr. Kartar Singh Refugee.

SAMBA.

1. Residents of Village Ratnal.
2. Nikka Ram, Amar Nath.
3. Bandhu and Sabidhu etc.
4. Ram Chand, President Tehsil National Conference.
5. M/S Sewar Singh, Ram Singh.
6. Bhagat Ram.
7. Members of Bar Association.
8. Besia son of Josa.
9. Mr. Tej Ram.
10. Mr. Babu Ram.

JAMMU.

1. Mr. Paras Ram Oswal.
2. Mr. Piara Singh Musafir.
3. Mr. Gian Chand.
4. President, City National Conference.
5. Sardar Reshi Singh.
6. Sardar Attar Singh.
7. Sardar Kashmir Singh.

JAMMU.—(*concluded*).

8. Sardar Lachman Singh, Jam.
9. Mr. Tara Singh Shant.
10. Th. Shamsher Singh, Retired Vakil.
11. M/S Karam Chand Gopi Chand.
12. Delegate National Conference, Khadi.
13. Mr. Sita Ram, Contractor, Purani Mandi.
14. Mr. Bishembardass, Bookseller.
15. Mr. Indersen Dogra, Seed Farm.
16. Mr. Hira Singh, Retired Wazir Wazarat.
17. Mr. Krishen Datt Raina, Advocate.
18. Sardar Tara Singh.
19. Mr. H. L. Gupta, Principal Model Academy.
20. Mr. Mani Ram.
21. Sardar Sadhu Singh.

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Kashmir Province.

Names of the persons who submitted the Memoranda.

Srinagar.

1. Mr. G. A. Mukhtar.
2. Haji Azem Baba.
3. Mr. P. N. Chakku.
4. Mr. Shiv Jee, Acting Secretary, Bohra Youngmans' Association.
5. Pr. Anand Ram Shangloo.
6. Mr. J. N. Dhar, M. O. Badgam.
7. Mr. Ali Mohd.
8. Carders Association, Srinagar.

Uri.

1. Mr. Habib Joo and others.
2. Mr. Gulam Qadir and others.
3. Mr. Rajoli and others.

Baramulla.

1. Mr. Ama Lone.
2. Kh. G. M. Shah.
3. Mr. Rahman Najar.
4. Mr. Gulam Jelani.
5. Mr. Abdul Hamid.
6. Sarpanch, Panchayat Halqa Palapora.
7. Mr. Gulam Rasool S P Halqa Yole.
8. Sarpanch, Panchayat, Auntru.
9. Pt. Badri Nath Raina.
10. Mr. Habib Ullah Katoo.

Handwara.

1. Mr. Sultan Mir.
2. Mr. Sultan Mir.
3. Pt. Shamboo Nath Kaul and others.
4. Mr. Vali Mohd. Dar.

HANDWARA.— (*concluded*).

5. Mr. Khazir Mohd., Member Panchayat
6. Mr. Afzal Khan and others.
7. Mr. Abdul Ahad.
8. Mr. Kadir Rather and others.
9. Sheikh Mohd. Maqbool.
10. Mr. Habib Ullah.

SOPORE.

1. Mr. Abdullah Sheikh and others.
2. Mr. Mohd. Akbar of Zainagair.
3. Mr. Lassi Bhat.
4. Mr. Khazir Bhat.
5. Raja Mohd. Hidayat Ullah Khan.
6. Raja Mohd. Sikandar Khan and others.

BANDIPORE.

1. Mr. Charag Din Khan.
2. Mr. Sultan Sheikh.

ANANTNAG.

1. Mr. Abdullah.
2. Mr. Sona Lone and others.

SHOPIAN.

1. Kh. Kabir Joo.
2. Mr. Abdul Aziz Wani.
3. Mr. Jammu Illahi.
4. Mr. Ama Joo, President, National Conference.

PULWAMA.

1. Mr. Abdul Gani Bhat.
2. Mr. Ahmad Bhat.
3. Mr. Rahman Bhat.
4. Mr. Hassan Bhat.
5. Mr. Gulam Malik.
6. Mr. Abdullah Rather.
7. Mr. Sikander Malik.
8. Mr. Mohd. Bhat.

PULWAMA.—(*concluded*).

9. Mr. Ahmad Bala.
10. Mr. Kabir Dar.
11. Mr. Ram Chand Bhat and others
12. Zamindars of Dangerpora.
13. Nabir Bhat.
14. Mr. Aziz Bhat.
15. Mr. Mohd. Akbar Lone.
16. Mr. Mohd. Anwar.
17. Maulvi Syed Rasool Shah.

KULGAM.

1. Mr. Rahim Ganai and others.
2. Mr. Vahab and others.
3. Pt. Srikanth and others.
4. Mr. Ashor Maliq.
5. Mr. Abdul Rashid Zargar and others.
6. Mr. G. M. Khan.
7. Mr. Akram Bhat and others.
8. Mr. G. M. Bhat.
9. Mr. Ramzan Rather and others.
10. Mr. Aziz Lone and others.
11. Shopkeepers' Welfare Association.
12. Pt. Aftab Ram and others.
13. Mr. Abdul Aziz Bhat and others.
14. Pt. Sarvanand Razdan.
15. Pt. Para Kaul.
16. Pt. Vesha Kaul.

LOLAB.

1. Mr. G. N. Bhat.
2. Mr. Mohd. Ahsan Wani.
3. Mr. Gaffar Doomb and others.
4. Kh. Meerakh Shah.
5. Mr. Suban Khan and others.
6. Mr. Abdul Gani.
   Zamindaran Village Sodagam.

TRAL.

1. Mr. Abdul Aziz Shah.
2. Sardar Sanmokh Singh.
3. Sardar Rughnath Singh.
4. Sardar Chattar Singh.

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Ladakh District.

Names of the persons who submitted their Memoranda.

Ladakh.

1. Members of Gompa Association, through Kochok.
2. Wazir Abdul Karim.
3. Wazir Gulam Haidar.
4. Kh. Gulam Mohd. Vice-President, Tehsil National Conference.
5. Tashi Durjai and others.
6. Sanam Kunzam and others.

Kargil.

1. Aga Syed Mohd., Vice-President, Tehsil National Conference, Kargil.
2. Mr. Gulam Mohd., Naib Sadar, Tehsil National Conference, Kargil.
3. Mr. Habib Ullah, Chaudri Bazaar, Kargil.

9.

APPENDIX III.

The State of Jammu and Kashmir was ruled by the Maharaja under the Constitution which was made in the year 1991. The Ruler was advised by a Council of Ministers appointed by him. There was a Legislative Assembly to frame laws. After the partiti n of India the paramountcy reverted to the Ruler and he became the full sovereign. The State of Jammu and Kashmir was attacked by the raiders from Pakistan in October, 1947. His Highness signed the Instrument of Accession and the State acceded to India in regard to the matters mentioned therein. The Indian troops were sent to Kashmir and the raiders were driven off. A portion of the State fell into the hands of Pakistan and on January 1, 1949, a Cease-fire was declared and that portion which is now called Azad Kashmir remained in the possession of Pakistan. His Highness retained the powers of Legislation under Section 5 of the Constitution Act of 1996 which reads as under :—

> " Notwithstanding anything contained in this or any other Act, all powers, legislative, executive and judicial, in relation to the State and its Government are hereby declared to be and to have always been inherent in and possessed and retained by His Highness and nothing contained in this or any other Act shall affect or be deemed to have affected the right and prerogative of His Highness to make laws, and issue proclamations, orders and ordinances by virtue of his inherent authority."

The Legislative Assembly functioned upto the invasion of the State towards the end of October, 1947, when the administration of the State was entrusted to the Head of the Administration under a Command of His Highness dated 30th October, 1947, as a measure of emergency. By his proclamation dated 5th March, 1948 corresponding to 23rd Phagan, 2004, His Highness, for the first time, declared as his policy the immediate establishment of a full democratic constitution based on adult franchise with a hereditary ruler from his dynasty as the Constitutional head of an executive responsible to the Legislature and replaced the emergency administration by a popular interim Government composed of a council of ministers who were to function as a Cabinet acting on the principle of joint responsibility. That proclamation further provided for appropriate steps being taken by the council of ministers to convene a National Assembly based upon adult suffrage, for the framing of the constitution as soon as the restoration of normal conditions was complete. By his proclamation published in the extraordinary issue of the Government Gazette dated 7th Har, 2006, His Highness delegated all his powers under the constitution to Shree Yuvraj. The Constitution Act of 1996 was amended by Act No. XVII of 2008 enacted by Shree Yuvraj and published in the Government Gazette dated 2nd Maghar, 2008 corresponding to 17th November, 1951. This Amendment Act brought the Constitution into accord with the spirit of the proclamations dated 5th March, 1948, 20th June, 1949 and 20th April,1951, and made changes in it including the repeal of Section 5 relating to inherent powers of His Highness and of Section 24 relating to reserved matters. The Act further provided that the powers of the Legislative Assembly shall, until other provision is made by or in accordance with a law made by the Constituent Assembly set up under the Proclamation dated 20th April, 1951, be exercisable by the said Constituent Assembly. The Constituent

Assembly envisaged in His Highness' Proclamation dated 5th March, 1948, and other Proclamations was elected on the basis of adult suffrage in the autumn of 1951 and it became the Legislative Assembly of the State. The Constitution Act was further amended by the Constituent Assembly by Act No. XV of 2009 published in the Government Gazette dated 28th Katik, 2009, corresponding to 12th November, 1952, which came into force on 17th November, 1952, corresponding to 3rd Maghar, 2009. In this Act the words "Sadar-i-Riyasat" were *inter alia* substituted for the words "His Highness" wherever they occurred. Sub-section 2 of Section 4 of the Act as it stands now after the above amendment provides that "All rights, authority and jurisdiction which appertain or are incidental to the Government of the territories of the State of Jammu and Kashmir shall be exercisable by the Sadar-i-Riyasat on the advice of the council except in so far as may be otherwise provided by or under this Act and except in regard to those matters enumerated in List I in the Seventh Schedule to the Constitution of India with respect to which the Parliament of India has powers to make laws for the State." The provisions of Section 4 were substantially the same as those of Act XVII of 2008 except that, as indicated above, the words "His Highness" occurred in the latter in place of "Sadar-i-Riyasat."

2. Under the circumstances detailed in the preceding paragraph the power of promulgating Ordinances was exercised by the Head of the Administration and in his absence by the Officiating Head of the Administration from 30th October, 1947, upto the formation of the Popular Interim Government on 5th March, 1948 (23rd Phagan, 2004). Thereafter the power of enacting Laws and promulgating Ordinances was exercised by His Highness up to 7th Har, 2006 and from that date up to the setting up of the Constituent Assembly in the autumn of 1951 (2008) by Shree Yuvraj under Section 5 of the Constitution Act.

APPENDIX IV.

Big Landed Estates Abolition Act.

This Act was enacted by Shree Yuvraj and came into force on the first of Katik, 2007, when it was published in the Government Gazette. It was for the first time amended by Act No. XV of 2008 which was also enacted by Shree Yuvraj and was published in the Government Gazette dated 18th Katik, 2008. It was provided in the Amendment Act that it shall be deemed to have come into force from the date the original Act came into force. The Act was again amended by the Legislative Assembly by Act No. XXI of 2009 published in the Government Gazette dated 1st Chet, 2009. The following are the important provisions made in it :—

(1) Right of ownership held by a proprietor in land other than land mentioned in sub-section 2 of Section 4 shall extinguish and cease to vest in him from the date the Act came into force. Sub-section 2 provides that extinction of the right of ownership shall not apply to :—

(*a*) unit of land not exceeding 182 *kanals* including residential sites, *Bedzars* and *Safedzars* ;

(*b*) Kahi-Krisham areas, Araks, Kaps and such lands including those used for raising fuel or fodder as are unculturable ; and

(*c*) orchards.

Provided that the Government may dispose of lands mentioned in clause (*b*) in such manner as may be recommended by the Committee that shall be set up for the purpose.

It will be easily noticed that whereas the operative part of the section recognised the right of absolute ownership of a proprietor in respect of the land mentioned in clause (*b*), the proviso in effect took it away by vesting the Government with power of disposal over it. Power of disposal can be exercised only by an owner. The proviso authori es the Government to take away under an executive order what the statute in express terms gave.

(2) Section 5 provides that ownership rights of such lands of a proprietor of which the right of ownership is extinguished shall be transferred to the tillers of such lands to the extent of their actual possession in Kharif 2007 provided that no tenant shall, with the land so transferred and that which he already owns, possess more than 160 *kanals* is ownership right. It is further provided that nothing in Section 5 shall preclude the Government, at any time, to revise the quantum of land transferred to the tillers.

Every proprietor as such has been allowed to retain his ownership over a unit of 182 *kanals* but in the case of a tiller it has been provided that with the land transferred to him and that which he already owned he shall not possess more than 160 *kanals* in ownership rights. The tiller may be proprietor of other lands in his own rights. Suppose he owns 150 *kanals* already, he cannot get ownership right over more than 10 *kanals* under this Act, even

though he may be cultivating personally much more than that. Once he gets any land, however small, in ownership rights under this section a ceiling is placed on the extent of his proprietary rights at 160 *kanals*.

The statute has in express words allowed a tiller who may be better called tiller-proprietor to own up to 160 *kanals* but sub-section (5) of Section 5 arms the Government with the power to reduce at any time the quantum of land transferred to him. In other words the Government is empowered to revise by an executive order what the statute expressly conferred upon a tiller.

It would further appear from the above that the provision in regard to the quantum of land to be transferred to the tiller in ownership right was not considered by the Government to be final and, therefore, it was left open to revision at a later time.

(3) All lands of which the right of ownership is extinguished and which are not in the cultivating possession of, or cannot be transferred to, any tiller and lands owned by persons declared as enemy agents, which are not in the cultivating possession of, or cannot be transferred, to any tiller shall vest in the State. These lands may be utilized in such manner as the Government decide under sub-section (2) of Section 6. The Government is empowered to permit an *ex*-proprietor to retain possession of the land subject to such terms and conditions as are settled by the Revenue Minister or an officer authorised by him in this behalf. The permission to retain possession shall not create any right or title in him.

The Act has not made any special or general provision in regard to the manner in which the land vested in the State may be utilised but clause (*e*) of sub-section (2) of Section 40 empowers the Government to make rules in this behalf. There is no limit to the extent of land that may be permitted to be retained by an *ex*-proprietor.

(4) Under Section 10, if the land of which the right of ownership is extingished was mortgaged or leased by the proprietor it shall vest in the mortgagee or lessee in ownership right free from encumbrances if the mortgagee or lessee is himself the tiller. If the land is not in the personal cultivation of the mortgagee or lessee then it shall be transferred to the tiller free from all encumbrances and the encumbrances on such lands shall be shifted to the estate of which the ownership right of the proprietor is left in tact as if the same had been mortgaged or leased by the proprietor, to the mortgagee or lessee, as the case may be, to such extent and in such manner as is determined under the provisions of Sections 10-A, 10-B and 10-C.

The above provision is an exception to the general law under which the burden of mortgage attaches to and passes on with, the land mortgaged on its transfer. Here the mortgaged land is transferred free from encumbrance which is shifted to the other land of the proprietor not originally mortgaged.

(5) Under Section 14 the proprietor has been given the right to select land for his unit of 182 *kanals* within such period as may be specified in the notice to be served upon him by the Revenue Officer authorised in this behalf and on his doing so the land selected by him shall be immediately demarcated on spot. If the proprietor fails to comply with the notice, the Revenue

Officer shall himself reserve the land for the proprietor and the land so reserved shall be deemed as if it had been selected by such proprietor himself.

The Act has not specified the period within which a proprietor may select his unit of land but has left it to the discretion of the Revenue Officer concerned.

(6) Section 20 forbids the transfer of land or any interest therein by a proprietor or a tiller without the permission of the Government but this is subject to a proviso that no permission shall be granted where the holding of a self cultivating proprietor or tiller is more than 2 acres but less than 12 acres. This proviso did not exist in the original Act but was added by the Amendment Act of 2008.

Under the above section a mortgage or even a lease of land cannot be made without the permission of the Government as it would amount to transfer of an interest in land. This section prohibits transfer of any interest in land and not merely permanent alienation of land. The above prohibition applies only to a self cultivation proprietor or tiller and it will be easy for a person to circumvent the prohibition by ceasing to be self cultivating. The prohibition not being absolute can be easily made ineffective.

(7) Sections 22 and 23 which prohibited partition of holdings below 12 acres were deleted under the Amendment Act of 2008.

(8) Section 24 provides that if a proprietor or tiller to whom land has been transferred transfers land or part thereof or any interest therein in contravention of the provisions of this Act or if a tiller sublets the land transferred to him for two successive harvests his right of ownerhip in the land or part thereof shall be extinguished and it shall escheat to Government.

The prohibition against subletting of land transferred to a tiller is not absolute and can be easily circumvented and made ineffective.

(9) Section 29 of the original Act was replaced by a new section and Section 29-A was added by the Amendment Act of 2008. The combined effect of the provisions contained in these two sections is as under :—

(*a*) Under clause (*c*) of Section 9 occupancy rights inland transferred to a tiller, if held by a person other than the tiller, have been terminated but the proviso to Section 29 gives power to the Government "notwithstanding anything contained in this Act" to transfer in ownership right a part of the land of which the right of ownership is extinguished under sub-section (1) of Section 4, to occupancy tenants in such proportion as may be fixed. The Act has terminated the right of occupancy not held by a tiller and has granted ownership rights to the tiller but this proviso empowers the Government to transfer in ownership right part of such land to the occupancy tenant by an executive order and this power can be exercised "notwithstanding anything contained in this Act." The executive order of the Government will in effect amount to a repeal of the express provision of the Act itself.

(*b*) The Act has not terminated the right or interest or non-cultivating tenure holders (occupancy tenants) in respect of the land of which the right of ownership is not extinguished but Section 29-A gives power to the Government to terminate the same in such manner as may be prescribed. Here

again the Government is empowered to terminate by any executive order a right not terminated by the Act.

(*c*) The above provisions show that the Government had not made up its mind in regard to the rights of occupancy tenants both in the lands of which the right of ownership is extinguished and lands of which the right of ownership is not extinguished and, therefore, they made no specific provision in the Act itself but left it to be determined later on under an executive order.

(10) Section 32 of the Act provides that "no suit or other proceedings shall lie in any civil or revenue court in respect of any order or concerning any matter which is subject of any proceedings taken under Sections 4, 5, 6, 8, 10, 11, 12, 14, 26, 27 and 29 of this Act." The Land Revenue Act does not take away the right of a party to go to a civil court for adjudication of questions of title. Even in partition proceedings if any objection is made involving a question of proprietary title which has not already been determined by a competent Court the partition officer may require any party to the case to institute within three months a suit in the civil Court for the determination of such question, *vide* Section 111-A of the Land Revenue Act. Sub-section (1) of Section 93 of the Tenancy Act of 1980 also provides that if in any proceedings pending before a Revenue Court exercising original, appellate or revisional jursidiction, it appears to the Court that any question in issue is more proper for decision by a civil court the Revenue Court may require any party to institute a suit in the civil court for the purpose of obtaining a decision on the question. There are no similar provisions in the Abolition Act and an order passed by a revenue officer (not a Revenue Court) in proceeding taken under sections enumerated above even if affecting questions of title cannot be challenged in any Court, civil or revenue.

Tenancy Law.

The first step taken in this direction was the promulgation of an Ordinance No. XIII of 2004 called the Tenants (Stay of Ejectment) Ordinance published in the Government Gazette dated 11th Chet, 2004, by the Officiating Head of the Administration staying all ejectment proceedings pending or to be started or to be instituted against a tenant in any Revenue Court for a period of one year. This Ordinance was followed by the amendments of the Tenancy Act of 1980 under four Acts namely Act No. VII of 2005, Act No. I of 2007, Act No. XIII of 2007 and Act No. XX of 2009 published in Government Gazette dated 4th Maghar, 2005, 12th Baisakh, 2007, 29th Bhadon, 2007 and 1st Chet, 2009, respectively. The first Act was enacted by His Highness and the two Acts of 2007 by Shree Yuvraj. The last Act namely the Act of 2009 was enacted by the Legislative Assembly. Several sections of the Act were amended more than once under the above Acts. These amendments in the main related to protected tenancy, rate of rent and procedure for ejectment of tenants.

The effect of all these amendments may be summarised below :—

(*a*) *Protected Tenancy.*—(*i*) A new class of tenants called "protected tenants" was recognised. Under the Act of 2005 a tenant was to be deemed to be a protected tenant in respect of land not exceeding 17 *kanals* of Abi or 33 *kanals* of Khushki if he had held such land continuously and cultivated it personally for not less than seven months immediately preceding 4th Maghar, 2005, the date of the enforcement of that Act. The area of land in respect of

which protected tenancy could be acquired was uniform throughout the State and there was no provision for acquisition of such rights in future. In the second amendment Act namely Act No. 1 of 2007 the limitations of areas indicated above were left unchanged in the case of Kashmir Province including the Frontier Districts of Ladakh and Gilgit but they were raised to 33 *kanals* of Abi or 65 *kanals* of Khushki for Jammu Province. This Act further provided for future acquisition of such rights by continuous possession for a period of not less than six years. In other words a tenant holding land under personal cultivation continuously for seven months immediately preceding 4th Maghar, 2005, or for a period of not less than six years any time thereafter was to be deemed to be and recorded as a protected tenant in respect of 17 *kanals* of Abi or 33 *kanals* of Khushki in Kashmir Province and 33 *kanals* of Abi or 65 *kanals* of Khushki in Jammu Province.

(*ii*) Whereas other classes of tenants including occupancy tenants are liable to ejectment on the ground of a decree for arrears of rent remaining unsatisfied a protected tenant is not liable to ejectment on such a ground.

(*iii*) A protected tenant is liable to ejectment if the landlord requires land *bona fide* for cultivating it personally but this is subject to an important proviso namely that the total of the land already held by the landlord in his personal cultivation and the area of tenancy from which ejectment is sought does not exceed 17 *kanals* of Abi or 33 *kanals* of Khushki. In the case of ejectment of any other class of tenant including an occupancy tenant the limitation as to the extent of Khud-Kasht land of a landlord imposed by the above proviso does not exist. A landlord is competent to cultivate personally any area of land but if he wants the ejectment of a protected tenant on the ground that he requires land for his personal cultivation the total area of land he will be permitted to cultivate including the land from which ejectment is sought cannot exceed 17 *kanals* of Abi or 33 *kanals* of Khushki.

(*iv*) There is no limit as to the area of land a tenant may hold as a tenant-at-will, the only limit being with regard to the extent of his protected tenancy. A landlord, *i.e.* a proprietor having a tenant under him, cannot eject a protected tenant if he has 17 *kanals* of Abi or 33 *kanals* of Khushki in his Khud Kasht, otherwise there is no bar to his having any area of his land as Khud-Kasht. In actual practice a landlord will not be able to have more than this area of his own land as his Khud- Kasht.

(*v*) A proprietor of land is not debarred from taking land of other proprietors, and that too without any limit, as a tenant under them. The result is that whereas a proprietor may not be able to cultivate more than 17 *kanals* of Abi or 33 *kanals* of Khushki of his own land there is no bar to his having for cultivation any area of land from other proprietors. This situation arises from the proviso to clause (*c*) of Section 45-A.

(*vi*) The area of protected tenancy in Jammu Province is almost double that allowed in Kashmir, being 33 *kanals* of Abi or 65 *kanals* of Khushki in the former as against 17 *kanals* of Abi or 33 *kanals* of khushki in the latter. Before the first amendment of 2007 the extent of protected tenancy was equal to that of the permissible Khud-Kasht land of the landlord but when the area of protected tenancy was raised to 33 *kanals* of Abi or 65 *kanals* of Khushki for Jammu Province under the first Amendment Act of 2007 the area of the landlord's permissible Khud-Kasht land was not similarly raised.

(*vii*) In the Amendment Act of 2005, 12 categories of land enumerated in Section 15-C were exempted from the acquisition of protected tenancy. Clause IX.exempted :

" Lands which have been let by a person who is in the military, naval or air service of the State or of the Indian Government or who belongs to one or more of the following classes, namely females, minors, lunatics, idiots or persons incapable of personally cultivating by reason of blindness or physical infirmity provided that in the case of a holding held jointly by more persons than one the provisions of this clause shall not apply unles all such persons are of one or more descriptions specified therein."

But under the first Amendment Act of 2007 this clause was deleted with the result that protected tenancy can be acquired in respect of lands let by persons mentioned above.

It may be added here that under clause XI lands within the cities, towns and notified areas are also exempted.

(*b*) *Rents.*—(*i*) For purposes of the rate of rent land has been divided into two classes, namely Abi and Khushki. Abi land has not been given its natural and ordinary meaning as it has been defined to mean not only "all irrigated lands" but also to include " such dry lands as grow sugar-cane wheat, maize and linseed."

The rate of rent is not only different in respect of Abi and the Khushki lands but it also varies with the size of a tenancy. When the extent of the cultivated land of any class other than *malyari* comprised in a tenancy or tenancies of one landlord or each of the co sharing landlords is more then 100 *kanals* the maximum rate of rent payable is one-fourth of the produce in case of kind rent and one fourth of the value of the produce in case of cash rent for Abi lands as defined above and 1/3rd of the produce or value of the produce for Khushki lands. The above rate of rent is subject to a proviso that no share of fodder of a grain bearing crop as part of such rent shall be payable by the tenant in cases where the landlord does not provide him with seed implements and cattle for purposes of cultivation. In all other cases the maximum rent payable by the tenant shall not exceed one-half of the produce or value of such produce. The rates of rent mentioned above are subject to yet another proviso namely that the existing rent shall not be enhanced where such rent is less than the maximum prescribed in the foregoing provisions.

(*ii*) If the extent of tenancy or tenancies under one landlord or each of the co-sharing landlords is not more than 100 *kanals* then the maximum rent payable will be one-half but as soon as the tenancy exceeds 100 *kanals* the rent payable will be one-fourth in respect of the entire land including the first 100 *kanals*.

(*iii*) As soon as the size of the tenancy comes down to 100 *kanals* or less the rent payable will be one-half instead of 1/4th. If a landlord owning singly more than 100 *kanals* dies and is succeeded by two or more sons the extent of the ownership of each son and consequently the extent of the tenancy under each will be less than 100 *kanals* with the result that the tenants who hitherto were paying 1/4th of the produce will have now to pay one-half thereof. In other words in the event of any landlord leaving at his death more

than one successor and the extent of tenancy falling to 100 *kanals* or less as a result the higher rate of rent will be payable by the tenants.

(c) *Ejectments.*

(*i*) No tenant of any class, occupancy tenant, protected tenant, tenants for a fixed term and tenant-at-will is now liable to ejectment otherwise than in execution of a decree for ejectment. If a landlord desires to eject a tenant of any category he shall have to file a regular suit in a competent Revenue Court, obtain a decree which is subject to more than one appeal and then apply for execution of that decree. Under the law as it stood before the second Amendment Act of 2007 a tenant-at-will was liable to ejectment on the issue of a notice under Section 50 but as a result of the repeal of that section he is not now so liable. It may be added here that in cases under the old Section 50 the tenant had the right to contest his liability to ejectment and in the alternative to claim compensation. There were sufficient legally enforcible safeguards for a tenant in that summary procedure.

(*ii*) There is, however, one exception to this provision and it is where a decree for arrears of rent has been passed against the tenant and remains unsatisfied. In such cases ejectment can be ordered on an application by the landlord but in these cases also the Revenue Officer is required to institute an inquiry with respect to the existence of the arrear, then to call upon the tenant to pay the outstanding arrears as decreed within 30 days from the receipt of the notice and it is only if the tenant makes default even then that his ejectment can be ordered. But as stated earlier, the existence of an unsatisfied decree for arrears of rent is not a ground for ejectment of a protected tenant.

(*iii*) Even if a landlord having no Khud-Kasht land, wants land for his Khud-Kasht up to the permissible limit, he has to lodge a regular suit for ejectment.

(*iv*) Tenants of lands enumerated in Section 15-C including tenants of lands within the cities, towns and notified areas in respect of which protected tenancy cannot be acquired, cannot be ejected summarily but only in execution of a decree for ejectment.

(d) *Other Matters.*

(*i*) Section 85-A of the tenancy Act as added by Act No. XX of 2009 authorises the Government to confer on any person or on two or more persons sitting together as a Board all or any of the powers of a Collector or an Assistant Collector of either class under the Act for such local limits and classes of cases as the Revenue Minister may direct.

(*ii*) The proviso to Section 86 has been replaced by a new proviso laying down that it is only in respect of the suits mentioned in Section 85 that appeals from original or appellate orders and decrees of the Collector shall lie to the High Court and not in cases of applications under Section 84.

(*iii*) Two new sub-sections (5) and (6) have been added to Section 57-A laying down that appeals from the orders of the Collector arising out of proceedings under that section shall lie to the Land Reforms Officers and

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further that appeals pending on the date on which the Amendment Act comes into force shall be transferred to the Land Reforms Officer..

JANKI NATH WAZIR.

HARNAM SINGH PATHANIA.

ALI SHAH

GHULAM AHMAD..

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